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SAN FRANCISCO ARTS COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

AGENDAS AND MINUTES

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, January 11, 1995
3:00 p.m.
Art Commission Conference Room

A G E N D A

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
POPS SYMPHONY CONCERTS
PUBLIC ART PROGRAM

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

ART COMMISSION GALLERY
155 GROVE STREET
415.554.9682

CITY AND COUNTY OF SAN FRANCISCO

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR PERMANENT DESIGNATION OF TWO SELLING SPACES ON BEACH STREET, NORTHWEST CORNER, AT HYDE STREET, FOR STREET ARTISTS CERTIFIED BY THE ART COMMISSION, PURSUANT TO BOARD OF SUPERVISORS RESOLUTION NO. 940-91.**

II **DISCUSSION ON PROPOSALS RECEIVED BY STREET ARTISTS PROGRAM FOR POSSIBLE DESIGNATION OF STREET ARTIST SELLING LOCATIONS**

A. **Harvey Milk Plaza (Castro & Market Sts.) - 7 spaces.** (formerly approved by Public Utilities Commission in Res. No. 92-0347 and Board of Supervisors Resolution for the period of December 1, 1992 - February 28, 1993) (request from various street artists)

B. **Stockton Street, west side, O'Farrell to Market Streets - 3 spaces.** (request from Robert and William Clark)

C. **Hyde Street, west side, Beach to Jefferson Streets (between bus zone and cablecar entrance) - 12 spaces.** (request from Therese Koller)

D. **Cablecar plaza area (Beach & Hyde Streets), across from gazebo) - 6 spaces.** (request from Therese Koller)

E. **Jefferson Street, north side, at Hyde Street (adjacent to Maskell Marine - 4 spaces.** (request from Therese Koller)

F. **Jefferson Street, north side, Taylor to Mason Streets - 2 spaces.** (request from Sherwin Stample)

G. **Mason Street, west side, at Jefferson Street - 6 spaces.** (request from Sherwin Stample).

H. **Leavenworth Street, west side, at Jefferson Street - the current 10 spaces used by portrait artists/funsketch artists to be ued by all artists.** (request from David Samuel)

Continued.....

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I. **Yerba Buena Gardens - 5 to 10 spaces.** (request from Tad Sky)

J. **6th Street, east side, at Brannan Street (adjacent to Flower Mart) and Brannan Street, north side, 5th to 6th Streets - undetermined number of spaces for Christmas selling season.** (request from Barbara Pope)

K. **Fulton Mall (Fulton St., Hyde to Larkin Streets) and Market Street, Hyde to Jones Streets - undetermined number of spaces** (request from Planning Department: "Civic Center Strategic Plan" presented by Citizens for Safety in the Civic Center)

L. **Relocation of spaces "B-44" through "B-54" to 5 feet from crosswalk (Beach Street at Larkin Street) on days when Cable Car Canteen is not present.** (request from David Samuel)

III **REPORT BY PROGRAM DIRECTOR ON SPECIAL LAW ENFORCEMENT SERVICES (POLICE ENFORCEMENT OF STREET ARTIST AND PEDDLING ORDINANCES) PROVIDED BY STREET ARTISTS PROGRAM IN DOWNTOWN AREA DURING CHRISTMAS SELLING SEASON, 1994**

IV **REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE**

A. **Christine Mar** - Certificate #4519 expired February 12, 1994; Ms. Mar's request for priority received by Program December 27, 1994.

V **RECOMMENDATION FROM 11/18/94 STREET ARTISTS LIAISON COMMITTEE TO RESCIND ART COMMISSION CERTIFICATION PROCEDURE (ADOPTED SEPTEMBER, 1994) OF COMMENCING VALIDITY OF A RENEWED CERTIFICATE ON THE DAY OF ITS PAYMENT WITHIN THE 10-DAY GRACE PERIOD; RECOMMENDATION TO RE-ADOPT PREVIOUS PROCEDURE OF BACKDATING VALIDITY OF A RENEWED CERTIFICATE TO PREVIOUS EXPIRATION DATE**

VI **ADJOURNMENT**

ACCESSIBILITY INFORMATION

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9, 26, and 42 Buses--serving the area of Van Ness and Market.
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SAN FRANCISCO ART COMMISSION

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STREET ARTISTS PROGRAM COMMITTEE

January 11, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Terri Simon, Emily Keeler

Commissioner absent: Tom Flynn

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Simon, Chair, called the meeting to order at 3:00 p.m.

I HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR PERMANENT DESIGNATION OF TWO SELLING SPACES ON BEACH STREET, NORTHWEST CORNER, AT HYDE STREET, FOR STREET ARTISTS CERTIFIED BY THE ART COMMIISSION, PURSUANT TO BOARD OF SUPERVISORS RESOLUTION NO. 940-91

Program Director Lazar reported that Mr. Stanley Roth, one of the existing (non-street artist) permit-holders whose hot dog and pretzel stand is opposite the two requested street artist spaces, had requested that the matter be put over to the April meeting of the Program Committee to enable him to meet with the Program Director and "survey" the location to see whether his proposed new display would be able to share the corner with the artists without hindering the flow of traffic. A variance may be required. Commissioner Simon said the matter would be continued to April.

II DISCUSSION ON PROPOSALS RECEIVED BY STREET ARTISTS PROGRAM FOR POSSIBLE DESIGNATION OF STREET ARTIST SELLING LOCATIONS

A. Harvey Milk Plaza (Castro & Market Streets) - 7 spaces. These spaces were formerly approved by the Public Utilities Commission (Res. No. 92-0347) and the Board of Supervisors for the period of December 1, 1992 - February 28, 1993. The request for re-designation of the spaces on a year-round basis came from various street artists. The Program Committee asked that the Program Director pursue the request and contact the agencies involved.

B. Stockton Street, west side, O'Farrell to Market Streets - 3 spaces (request from Street Artists Robert and William Clark). Mr. William Clark explained that the proposed

CITY AND COUNTY OF SAN FRANCISCO

spaces met all the Police and Fire Safety regulations of the Street Artists Ordinance, that the Art Commission had helped the Police Department in re-writing the Police Code to facilitate enforcement, that the artists would soon be losing six prime selling spaces further up Stockton Street due to re-construction of the building housing Dunhill's, that the Program Director intends to re-hire Police officers for increased enforcement, that this enforcement paid for by the street artists made a sizeable dent in the enforcement problems downtown during the past Christmas season, and that illegal (non-licensed) vendors have used the proposed area of Stockton Street regularly until the Art Commission's hired Police enforced it.

Mr Edward Lawson, Executive Director of the Union Square Association, explained that the proposed location is a very sensitive area because the sidewalk is narrow, there is the adjacent BART entrance, many automobiles, and the block is unstable due to the high turnover of store tenants. He acknowledged that the block has been used by illegal vendors and expressed his organization's appreciation for the enforcement efforts provided by the Street Artists Program during Christmas which made a positive impact downtown. However, the artists' request for additional spaces downtown was unjustified, as there are many existing spaces that are not being used, the spaces by Dunhill will be lost only temporarily and might be able to be relocated elsewhere in the immediate area, Christmas was poor for the store merchants, and whatever money is spent on the street does not go into the stores.

Commissioner Simon directed Mr. Lazar to meet with Mr. Lawson at the proposed location, to explore other possible options for re-locating the Dunhill spaces, and to report on this matter at the next Program Committee meeting.

C. **Hyde Street, west side, Beach to Jefferson Streets (between bus zone and cablecar entrance) - 12 spaces** (request from Street Artist Therese Koller). The Program Director presented a map he had drawn which showed that the proposed site would accommmodate **eleven (11)** - not twelve - spaces alongside a curb area of 94 feet, the first space to commence 5 feet from the crosswalk. Commissioner Keeler asked Mr. Lazar to pursue the proposal with the National Park Service and the Fisherman's Wharf Merchants Association.

D. **Cablecar plaza area (Beach & Hyde Streets), across from gazebo - 6 spaces** (request from Street Artist Therese Koller). The Program Director presented a map he had drawn which showed that the proposed site would accommodate 6 spaces 4 feet apart from each other alongside a retaining wall, thereby requiring exemption from the 5-foot distance-from-space regulation. Commissioner Simon asked Mr. Lazar to pursue the proposal with the National Park Service and the Municipal Railway.

E. **Jefferson Street, north side, at Hyde Street (adjacent to Maskell Marine Services) - 4 spaces** (request from Street Artist Therese Koller).

F. **Jefferson Street, north side, Taylor to Mason Streets - 2 spaces** (request from Street Artist Sherwin Stample).

While Therese Koller was not present to support her proposal, Sherwin Stample spoke on behalf of his proposal. Street Artist Kathy Hallinan supported both proposals and spoke of the thousands of dollars spent by the artists for Police officers to patrol Jefferson Street as well as downtown and that the artists are vigilant and report situations to the Police.

With regard to Item II (E), Program Director Lazar reported that while the site, a 36-foot red curb adjacent to a 14'3" wide sidewalk, could accommodate 4 spaces, Mr. Don Maskell of Maskell Marine Services had telephoned him and said that 4 street artist stalls would effectively block the view of his store's window displays and would seriously hinder the store's income - a store which stands apart from other retail businesses on the block.

Mr. Joe Wyman of the Port Commission's Planning Department asked that the two proposals for spaces on Jefferson Street be taken up with the Port Commission prior to consideration by the Art Commission's Program Committee, cited problems of congestion at the Wharf, and stated that Proposition H bans all non-maritime uses on Port property unless a comprehensive waterfront land use plan is adopted after an environmental impact report.

Street Artist William Clark stated that Proposition L (Street Artists Ordinance) affords the street artists to go directly to the Board of Supervisors with requests for spaces prior to further approval by the Port

Commission of such requests on Port property, that the Board of Supervisors asked the Art Commission in 1975 to voluntarily conduct hearings on such requests in order to facilitate the Board's deliberations, and that the Commission presently was performing that very task. Both William and Robert Clark stated that it would be possible for the Street Artists Program to remunerate the Port with a rental fee for artists' spaces.

Street Artist James Millard stated that last summer representatives of the Port had appeared at the Board of Supervisors and blocked a previous request by the artists and the Art Commission for 4 spaces on Jefferson Street by stating that the Port needed time to consider uses of its property, that the Art Commission had withdrawn its request in deference to the Port, and that Supervisor Hallinan had written to the Port to request that the Port meet with the staff of the Street Artists Program.

Mr. Wyman offered that the Port's Kirk Bennett or Fred White would be willing to meet with Mr. Lazar on the current proposals before they are brought back to the Art Commission; or, if these representatives are unable to meet, Director of Cultural Affairs Joanne Winship could telephone Port Director Dennis Bouey.

Commissioner Simon directed Mr. Lazar to call on one of the three persons mentioned by Mr. Wyman for a meeting on the proposals and see if an agreement could be reached.

G. **Mason Street, west side, at Jefferson Street - 6 spaces** (request from Street Artist Sherwin Stample). Street Artist Sherwin Stample stated that the site is free of any restrictions, such as bus stops, loading zones, doorways, that would prohibit street artist spaces. In addition, there was much foot traffic which would make the spaces viable. The Commissioners directed Mr. Lazar to work with Mr. Stample in pursuing the request.

H. **Leavenworth Street, west side, at Jefferson Street - the current 10 spaces used by portrait/funsketch artists to be made available to all artists** (request from Street Artist David Samuel). The Program Director gave the history of the spaces which, by default of non-portrait street artists, have been used traditionally and exclusively by portrait and funsketch artists because of the lighting and shelter conditions on the block. Mr. Lazar submitted a letter he received that day from

Mr. Christopher Martin, General Manager of The Cannery, in opposition to the spaces being used by non-portrait artists.

While funsketch Street Artists Gerard Cracas and Martin Butschek asked that the Commission not make a decision until the other portrait artists become involved, Street Artists William Clark and James Millard said that other artists wanted to use the spaces because of the shortage of Program spaces and asked that the City Attorney be requested to clarify whether the Art Commission has the authority to reserve spaces for a particular type of street artist.

Commissioner Simon tabled the item and directed Mr. Lazar to request the City Attorney for clarification on whether the Art Commission could be held legally liable for restricting spaces to a particular type of artist.

I. **Yerba Buena Gardens** (request from Street Artist Tad Sky). Street Artist Tad Sky presented a map and described an open-space "art zone" at the Gardens which could accommodate either four 10' x 10' spaces or eight 5' x 10' spaces against the 45'-long wall of the Center for the Arts Galleries, or four 5' x 10' spaces or two 5' x 20' spaces in the 45' x 5' plaza in front of the Theater. This would afford a flexible use of space similar to that at Justin Herman Plaza which, for twenty-two years, has allowed street artists to sell large-scale works of art which they could not sell in the regular 3' x 4' spaces on the sidewalks. Commissioner Simon asked Mr. Lazar to work with Mr. Sky in pursuing the proposal.

J. **6th Street, east side, at Brannan Street (adjacent to Flower Mart; and Brannan Street, north side, 5th to 6th Streets - undetermined number of spaces for Christmas selling season** (request from Street Artist Barbara Pope). Program Director Lazar reported that he had not been furnished with details of the proposal and had not had opportunity to view the area. Commissioner Simon tabled the proposal.

K. **Fulton Mall (Fulton Street, Hyde to Larkin Streets); and Market Street, Hyde to Jones Streets - undetermined number of spaces** (request from Planning Department as part of "Civic Center Strategic Plan" presented by Citizens for Safety in the Civic Center). Ms. Susana Montana of the Planning Department discussed the

Strategic Plan as a plan for revitalizing and making safe the Civic Center area, for introducing mixed uses of certain buildings on a 24-hour basis, and for improving the mid-Market Street area (between 5th and 8th Streets) by increasing the lighting, cleaning the sidewalks, and asking property owners to open their boarded-up stores to local artists. While street artists, she said, would be reluctant to sell unless there are customers, the locations could be in place for them when they are ready to attempt ot sell.

The Commissioners asked that the proposal be placed on a subsequent Program Committee agenda for a vote of recommendation.

L. **Relocation of spaces "B-44" through "B-54" to 5 feet from crosswalk (Beach Street at Larkin Street) on days when Cable Car Canteen is not present** (request from Street Artist David Samuel). Street Artist Sherwin Stample stated that the owner of the mobile canteen told the artists that he would not object to this proposal. Commissioner Simon asked the Program Director to talk to him about it.

III **REPORT BY PROGRAM DIRECTOR ON SPECIAL LAW ENFORCEMENT SERVICES (POLICE ENFORCEMENT OF STREET ARTIST AND PEDDLING ORDINANCES) PROVIDED BY STREET ARTISTS PROGRAM IN DOWNTOWN AREA DURING CHRISTMAS SELLING SEASON, 1994**

As the Program Director had only recently received all of the Police Incident Reports and had not had time to put them into a summary, the item was continued to the next meeting of the Committee.

IV **REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE**

Kristine Mar - Certificate #4519 expired February 12, 1994; Ms. Mar's request for priority was received by the Program December 27, 1994. Ms. Mar stated that she had given up her certificate when her husband and she started a store business; when the business folded, they both could not afford to renew their certificates and decided that he would do so. Now, a year later, she was able to afford one for herself. Commissioner Simon moved that Ms. Mar's request for priority be approved with waiver of re-screening; the motion was seconded by Commissioner Keeler and unanimously

approved.

V **RECOMMENDATION FROM 11/18/94 STREET ARTISTS LIAISON COMMITTEE TO RESCIND ART COMMISSION CERTIFICATION PROCEDURE (ADOPTED SEPTEMBER, 1994) OF COMMENCING VALIDITY OF A RENEWED CERTIFICATE ON THE DAY OF ITS PAYMENT WITHIN THE 10-DAY GRACE PERIOD; RECOMMENDATION TO RE-ADOPT PREVIOUS PROCEDURE OF BACKDATING VALIDITY OF A RENEWED CERTIFICATE TO PREVIOUS EXPIRATION DATE**

Street artist James Millard favored the proposed rescission; he said the current procedure allowed artists to get away with extra days of selling without having to pay for them.

Street Artist William Clark stated that he was at the November 18 Liaison Committee meeting where the members were divided on the issue and the recommendation passed only by a 5 to 4 vote; he was opposed to rescission; many street artists have expressed their appreciation for the new procedure.

Commissioner Simon stated that because the new procedure had been adopted only four months previously and her Committee had spent a great deal of time in hearing the matter, a full year should be given to implementing the procedure before considering its rescission. Commissioner Keeler stated agreed that it required the crucible of time and that it should be re-considered after summer.

With respect to this discussion on licensing, the Commissioners asked the Program Director to vigorously enforce the section of the ordinance which requires street artists to display their certificate while selling. Commissioner Keeler requested that a discussion on methods of such enforcement be placed on the Committee's next agenda.

The Commissioners also asked that another item relevant to licensing be placed on the next agenda: a discussion on restricting artists who fail to produce their certificate at the lottery from obtaining a selling space in the lottery.

The meeting adjourned at 5:48 p.m.

Respectfully submitted:
Howard Lazar
Howard Lazar, Director
Street Artists Program

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STREET ARTISTS LICENSES
SUITE 70
415.252.2581

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, February 8, 1995
3:00 p.m.
Art Commission Conference Room

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **REPORT ON STAFF INVESTIGATION OF PROPOSED THREE (3) STREET ARTIST SELLING SPACES ON STOCKTON STREET, WEST SIDE, AT O'FARRELL STREETS**

II **REPORT BY PROGRAM DIRECTOR ON SPECIAL LAW ENFORCEMENT SERVICES (POLICE ENFORCEMENT OF STREET ARTIST AND PEDDLING ORDINANCES) PROVIDED BY STREET ARTISTS PROGRAM IN DOWNTOWN AREA DURING CHRISTMAS SELLING SEASON, 1994**

III **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES**

A. **Inga Abramova - Certificate #4669.** Alleged violation: Selling in a location not designated by Board of Supervisors (Stockton St., west side, Geary to O'Farrell Sts. - December 11, 1994).

B. **Rafael Mendoza - Certificate #4415.** Alleged violation: Selling in locations not designated by Board of Supervisors (Powell Street - December 10 and 21, 1994); submitted by Police reports.

C. **Jamie Erfurdt - Certificate #3804.** Alleged violation: Selling in a location no designated by Board of Supervisors (535 Market Street - December 21, 1994); submitted by Police report.

IV **DISCUSSION ON METHODS OF ENFORCING DISPLAY OF CERTIFICATE**

V **DISCUSSION ON RESTRICTING ARTISTS WHO FAIL TO PRODUCE THEIR CERTIFICATE AT LOTTERY FROM ENTERING LOTTERY**

VI **DISCUSSION ON ART COMMISSION'S AUTHORITY TO DENY ISSUANCE OF A CERTIFICATE TO A FORMER CERTIFICATE-HOLDERS WHO FAILED TO SERVE THEIR CERTIFICATE'S SUSPENSION AND HAVE BEEN OBSERVED VIOLATING THE STREET ARTISTS ORDINANCE**

CITY AND COUNTY OF
SAN FRANCISCO

VII **DISCUSSION ON PROPOSAL FOR PERMANENT STREET ARTIST SPACES**

A. Market Street, north side, Battery to Sansome Streets - 10 spaces. Proposal to request ten temporary Christmas season spaces to be made permanent. (Proposal from Street Artist Debra King)

VIII DISCUSSION AND APPROVAL AND/OR REVISIONS TO 95-96 STREET ARTISTS PROGRAM BUDGET

(A copy of the 1995-96 Street Artists Program Budget is available upon request to the office of the Street Artists Program, (415) 252-2581.)

IX ADJOURNMENT

ACCESSIBILITY INFORMATION

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SAN FRANCISCO ART COMMISSION

January 25, 1995

MEMORANDUM

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Gallery
POPS Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

To: Commissioners Terri Simon, Emily Keeler, Tom Flynn - Street Artists Program Committee

From: Howard Lazar, Director, Street Artists Program HL

Re: Special Law Enforcement Service (S.F.P.D.) in the Downtown-Union Square area, Christmas Season 1994, Hired by Street Artists Program

"He was charging persons forty-five dollars for each sweater and fifteen for each scarf. The cardboard boxes were obstructing the sidewalk and creating a hazard for pedestrians. ..." (report by Officer Baca, 12/15/94)

"It should be noted that I advised ( ) ... not to sell his items without a permit a few weeks ago. ( ) has also been cited three times in the recent past ..." (report by Officer Liu, 12/21/94)

He had the above listed property" (purses) **"display on a table and was opening them for business. I had cited ( ) on Saturday"** (12/17/94) **"for the same type of incident."** (report by Officer Cheung five days later, 12/22/94)

"Some of the purses had price tags which were priced at forty-five dollars. ... It should be noted that ( ) told me that she buys the purses in Los Angeles wholesale and sells them on the street." (Officer Baca, 12/24/94)

"... He had two boxes of scarves set up in front of him and he was selling them for $3.00 each ..." (Officer Cheung, 12/17/94)

These are some of the comments from the Police Incident Reports about unlicensed vendors in Downtown San Francisco during the 1994 Christmas selling season. For the third consecutive year, off-duty Police officers were hired by the Art Commission's Street Artists Program to enforce the street artist ordinance. The Street Artists Program, entirely self-supporting from its license fees, increased its annual budget to provide $15,000 to pay for this enforcement not only during the Christmas season but also during summer at Fisherman's Wharf and during various weekends throughout the year.

City and County of San Francisco

As in the previous two years, officers were hired for the Christmas season to crack down on unlicensed (non-street artist)

vendors who obstruct the sidewalks, sell goods not authorized by the Police or the Art Commission, and represent untaxed and unfair competition for the street artists and the stores. Our order to the Police was to cite such individuals under MPC 869 and to confiscate their merchandise.

Again, thanks to the perseverance of Sgt. Michael Thompson of the Police Department's Special Law Enforcement Services, a van was reserved for this assignment which enabled the officers to load up the confiscated merchandise during the course of each day and to transport it to the station at the end of the day. Because of this, the officers' presence on the streets was guaranteed throughout the day on most days.

As a result of this procedure, the following major items being sold by unlicensed vendors were confiscated and transported out of Downtown:

278 scarves + 20 boxes of scarves
78 pairs of gloves + 4 boxes of gloves
78 purses/wallets + 21 boxes of purses/wallets
11 sweaters + 1 box of sweaters
21 boxes of jewelry/watches
12 boxes of neckties

Other types of confiscated items were umbrellas, paper "snakes," foam "antlers," fanny packs, barrettes, mistletoe, coffee packets, "reindeer" candycanes, posters, Russian lapel pins, knitted caps and slippers, and display tables and handcarts.

The enforcement period encompassed 14 days (70 day hours and 42 night hours - the same as last year's enforcement) over an area expanded from Stockton Street, Sutter to Market, and Market Street, 4th to 5th Streets (last year's assignment) to Post Street, Montgomery and Market Streets, and Market Street, Sutter and Sansome Streets. This "T"-shaped route has been traditionally the most violated Downtown area by unlicensed vendors, as observed by the Police and the Street Artists Program staff not just during the previous Christmas but throughout 1994.

The enforcement over this expanded territory resulted in 39 incidents of confiscation - 4 less than last year's total from a more restricted territory. It is my perception, from first-hand observation, that this reduction of incidents was due to the prevailing knowledge of the officers' presence in

the area and the memory of last year's confiscations.

It was also my own observation that Stockton Street, Sutter to Market Streets - traditionally, until last Christmas, the major area of unlicensed vendors - was "clean" during the entire 14-day enforcement period.

The cost in street artist fees of the Christmas enforcement was $4,456 (an increase of $292 over last year's job). One officer was assigned for each day; some worked more than one day. In all, 7 officers were hired. Please see the attached sheet detailing **"INCIDENTS OF CONFISCATION AND CITATION"** performed by the officers.

In summary, the following comparison of assignments over the past three Christmas seasons is encouraging:

	1992	1993	1994
TOTAL DAYS:	15	14	14
TOTAL DAY HRS:	82.5	70	70
TOTAL NITE HRS:	34.5	42	42
AREA OF ENFORCEMENT:	Downtown + Union Square	Stockton St. (Sutter/Mkt.) Market St. (Stockton/5th)	Same as 1993 + Post (Montgomery/Market) + Market (Sutter/Sansome)
INCIDENTS OF CONFISCATION:	30	43	39

In response to criticism of this assignment by some street artists, let me say that it still proved necessary for the officers to verify that our own artists were selling in their legal spaces. The Incident Reports reveal that there were five street artists who were cited for not selling in legal spaces. One of the five was cited on two occasions and has served a suspension for selling in illegal locations a year before. Three of the five unfortunately had their merchandise confiscated (which was not part of the orders).

In summary, it was again proven that with personnel thoroughly knowledgeable about the laws governing street artists, peddlers, and charitable solicitors, and with a van and the

transport of merchandise at the end of each day, the city's busiest retail thoroughfare was kept clear of unlicensed vendors during the major business hours for two weeks before Christmas. On this route, illegal tax-free competition for the street artists and the stores was, for the major hours, eliminated.

It was proven also that the previous year's restricted Stockton/Market route could be expanded effectively to Market/ Montgomery and Market/Sutter, yielding an expanded territory of Police presence.

A positive by-product of the Christmas enforcement paid for by the street artists is that this expanded territory of Police presence increased the deterrent against all crime.

With regard to the unlicensed vendors themselves, it was observed from the Police reports that while their merchandise was confiscated and held until court hearing, many of the offenders were back out on the street, replenished with merchandise; many were repeat offenders from previous years; and, at the time of this writing, we have received reports that some have resumed selling at Montgomery and Market and at Sansome/Sutter/Market. Why are they able to continue their illegal activities?

I have written to the District Attorney's office with a list of numbers of all the confiscation incidents from this past Christmas and an enquiry as to the status of each: Is the case being prosecuted? Was it prosecuted? Was a fine or penalty imposed? What was the fine or penalty? Was the case dismissed?

As you know, any street artist who is found in your Committee's hearings to have sold in an illegal location may receive a suspension of his certificate for three weeks for a first offense, six weeks for a second offense, and possible revocation for a third offense - and most such cases receive these standard penalties. Furthermore, any street artist who is found by your Committee to have sold items not of his own creation (that is, merchandise manufactured by someone else) may receive a two-month suspension for a first offense and revocation for a second offense - and most such cases have indeed received these standard penalties. The Commission's penalties and hearing procedure, coupled with staff and Police monitoring, are a formidable deterrent to potential violations by street artists. In addition, the artists' business tax registration with the Tax Collector makes them easily identifiable for enforcement purposes.

But the unlicensed vendors - persons of whom it is doubtful are registered with the Tax Collector and who pay no funds to the City for using the people's sidewalks - continue their activities throughout each year and are only restricted dramatically when the Art Commission pays for special enforcement.

It is time to find out where the problems exist. Are the fines for unlicensed vending insignificant or not imposed at all? How many cases cited by the Police get to court? On many occasions in recent years we have heard Police officers express frustration over the fact that various unlicensed vendors they cite are dismissed by court or not prosecuted, and they re-appear Downtown with merchandise replenished by their suppliers. This is supported by other quotes from the recent Incident reports:

> **"As I have cited ( ) many times in the past for the same charge, 869 MPC, and "** (the vendors') **"display was blocking the sidewalk ..."** (Officer Gregory, citing two unlicensed vendors on 12/9/94)

> **"( ) is a known subject who sells merchandise without a valid permit ..."** (Officer Tom, 12/21/94)

Since these persons do not replenish the general fund or the Street Artists Program's fund with the ongoing costs of the enforcement of their activities, perhaps it is time to consider asking for a City Attorney clarification on whether the City would be able to donate the confiscated warm scarves, sweaters, gloves, and other items to its shelters and assistance programs. If the City itself can't get the revenue to replenish the costs of enforcement, then at least a good number of people could benefit from this clothing and other essentials. It goes without saying that 278 homeless folks would greatly appreciate 278 scarves.

Attachment (1)

cc: All Art Commissioners
Director of Cultural Affairs Joanne Chow Winship
Captain John E. Willett, Central Station, S.F.P.D.
Sgt. Michael Thompson, Special Law Enforcment Services
All Officers listed in this memo
All Members, Street Artists Liaison and Lottery Committees
All Downtown merchant and building owner associations and stores listed on the Street Artists Program's mailing list
All artists on Program's mailing list

SPECIAL LAW ENFORCEMENT SERVICES (S.F.P.D.) HIRED BY
ART COMMISSION STREET ARTISTS PROGRAM FOR CHRISTMAS SEASON, 1994

INCIDENTS OF CONFISCATION OF UNLICENSED MERCHANDISE

DATE	OFFICER	CONFISCATED MERCHANDISE	NUMBER OF INCIDENTS	NUMBER OF CITES
Friday 12/9	T. Gregory	7 boxes jewelry, wallets, fanny-packs; 1 box each: scarves, ties, scarves/barrettes; 1 handcart; 1 bag each: gloves, ties, sweaters; 1 box each: handbags, ties, scarves; 1 table; 1 handcart	3	3
Sat 12/10	C. Liu	25 "reindeer ears"; 25 mistletoe; 6 umbrellas; 1 box umbrellas; 1 board jewelry; 1 bag jewelry; 1 table	3	4
Sun 12/11	" "	1 box "magic worms"	1	2
Thurs 12/15	A. Baca	63 scarves; 65 scarves; 78 gloves; 72 scarves; 61 scarves; 1 dolly; 9 boxes ties/scarves; 1 handtruck; 11 sweaters; 9 scarves; 1 bag scarves/umbrellas/ties; 1 chair; bixes of ties/scarves	5	7
Fri 12/16	D. Albright	3 boxes scarves; 1 box ties; 40 hand-painted switchplates	2	2
Sat 12/17	E. Cheung	1 box purses/bags; 21 gift baskets; 2 boxes scarves; 1 bag handbags	4	3
Sun 12/18	A. Baca	basket "reindeer" candycanes; 36	3	3

		purses; 37 leather bracelets; 1 table; 10 hairbows; 7 crocheted slippers; 8 crocheted scarves; 7 crocheted potcovers; 1 chair; 2 metal trays		
Mon 12/19	S. Ng	3 boxes scarves; 1 box gloves; 3 boxes ties; 1 handtruck; 2 tables; 4 boxes costume jewelry/leather goods/watches; 1 toy "snake"; 3 boxes scarves; 1 box gloves; 1 handtruck	3	5
Tues 12/20	C. Tom	5 wire figures; 5 etchings; 11 bags of coffee	3	3
Wed 12/21	" "	assorted metal pins; assorted Russian jewelry boxes, light plates, mini-picture frames; 1 table; 5 foam "antlers"; assorted unbrellas; 1 folding cart	3	5
Thurs 12/22	E. Cheung	purse; boxes ties; box earrings	3	3
Fri 12/23	C. Liu	3 purses; 1 wallet; 6 trays watches; 1 table; 7 knit caps; 13 candles; 3 wreaths	2	2
Sat 12/24	A. Baca	27 purses; 10 wallets; numerous T-shirts/hats/scarves/gloves; numerous posters	4	4
Mon 12/26	D. Albright	0	0	0

(compiled from Police Incident Reports received from S.L.E.S., January, 1995 - Howard Lazar, Art Commission

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
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STREET ARTISTS PROGRAM COMMITTEE

February 8, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emily Keeler, Terri Simon

Commissioner absent: Tom Flynn

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Keeler, Chair, called the meeting to order at 3:10 p.m.

I REPORT ON STAFF INVESTIGATION OF PROPOSED THREE (3) STREET ARTIST SELLING SPACES ON STOCKTON STREET, WEST SIDE, AT O'FARRELL STREET

Program Director Lazar reported that he had surveyed the proposed sites with the assistance of the two street artists who were proposing them, William and Robert Clark, and he found that all three would meet all of the safety regulations provided in Ordinance 41-83 - they would even permit a pedestrian passageway a half foot wider than what is required, and the location nearest a standpipe would be thirty-six and a half feet farther away than what is required.

Mr. William Clark proposed that the placement of the second space (from the O'Farrell corner) be adjusted so that it would be three feet away from the light pole instead of one and a half feet as originally planned. Mr. Clark also testified that the artists lost three prime Christmas season spaces on Post at Stockton when Tiffany Co. took over the Qantas Building; the artists also lost two prime spaces on Jefferson Street due to construction of a doorway; and they were now losing four spaces adjacent to Cost Plus due to construction. The three spaces proposed for Stockton Street should be considered as a reciprocal measure.

The Commissioners directed Mr. Lazar to proceed with negotiating with the downtown merchants for the spaces.

II REPORT BY PROGRAM DIRECTOR ON SPECIAL LAW ENFORCEMENT SERVICES (POLICE ENFORCEMENT OF STREET ARTIST AND PEDDLING ORDINANCES) PROVIDED BY STREET ARTISTS PROGRAM IN DOWNTOWN AREA DURING CHRISTMAS SELLING SEASON, 1994

CITY AND COUNTY OF SAN FRANCISCO

Mr. Lazar summarized the major points of his January 25, 1995 report which was mailed to all Art Commissioners, the Police Department, and all street artists, store merchants, and merchant and building owner associations on the Street Artists Program's mailing list. The report listed the major items, and their amounts, confiscated from the illegal vendors by the officers hired by the Program. The amounts included 278 wool scarves and 20 boxes of scarves. There were 39 incidents of confiscation during the 14-day enforcement period which kept "clean" Stockton Street (the major area of unlicensed vendors) during the major business hours of the two weeks prior to Christmas. In addition, the route was expanded to cover Market, Post and Montgomery, and Market and Sutter Streets.

In response to his letter inquiring about the status of the cases of those persons who were cited, the District Attorney's office told Mr. Lazar that the majority of the cases was discharged by the D.A. because of a lack of resources to prosecute them, as the cases were misdemeanors and not infractions which would have warranted immediate payment of fines. If the 47 citations issued last Christmas were to each yield a fine of $100, the total amount would be more than what the Street Artists Program paid from its for the winter enforcement.

After much discussion by the Commissioners and the artists, Commissioner Keeler directed Mr. Lazar to find a way in which the citations could be automatic fines and the fines could be reverted to the Street Artists Program or the Art Commission.

III DISCUSSION ON METHODS OF ENFORCING DISPLAY OF CERTIFICATE

The Commissioners directed Mr. Lazar to vigorously enforce the provision of the street artist ordinance which requires the display of certificate; this will help the Police in their enforcement as well.

The Commissioners lauded Street Artist Eunice Rodriguez for her initiative the previous weekend in confronting a street artist violator who refused to show his certificate.

IV HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

A. Rafael Mendoza - Certificate #4415. Alleged violation:

Selling in locations not designated by the Board of Supervisors (Powell Street - December 10 and 21, 1994); submitted by Police reports.

Mr. Mendoza was not present. Under the Art Commission's "Hearing Procedure of Street Artist Violations," the Program Committee was authorized to hear the case in the artist's absence and possibly recommend the penalty for the violation for which the artist was charged.

Program Director Lazar submitted copies of Police Incident Reports of December 10 and 21, 1994, written by Officers Curtis Liu and Craig Tom, respectively, citing Rafael Mendoza for selling in undesignated locations on Powell Street. Mr. Lazar also presented a copy of his November 30, 1994 letter warning Mr. Mendoza against continued selling in illegal locations. Also presented was a copy of the January 18, 1995 field inspection report by Program Certification Clerk Antoinette Worthy which stated that Mr. Mendoza was observed by Ms. Worthy as selling "in an undesignated space on Powell Street"; this was almost a month after Mr. Mendoza had been last cited by the Police.

The Commissioners noted, from his file, that Mr. Mendoza had served a three-week suspension (standard penalty for first offense) for having been found selling in illegal locations on five occasions in 1993.

Officer Craig Tom testifed to his December 21st report: he had observed Mr. mendoza set up in the illegal location, adjacent to 152 Powell Street, with a fold-out table and suitcase displaying monogrammed wrist bracelets. The officer recognized him from previous citing incidents; he had cited him twice before in 1994. According to the officer, Mr. Mendoza said he did not have time to go to the street artists' lottery to get a legal space and said that he understood the citation.

Certification Clerk Worthy testified to her field inspection report of January 18th and that when she accosted him in the illegal location, Mr. Mendoza told her that he had tried selling in the legal spaces but that traffic there was not so good. She warned him that a second offense for selling in an illegal location could give him a six-week suspension.

Commissioner Simon moved that Rafael Mendoza be found

in violation of the street artist ordinance by selling in a location not designated by the Board of Supervisors, second offense, and that Mr. Mendoza's certificate be suspended for a period of six (6) weeks; the motion was seconded by Commissioner Keeler and unanimously approved.

B. **Jamie Erfurdt - Certificate #3804.** Alleged violation: Selling in a location not designated by the Board of Supervisors (535 Market Street - December 21, 1994); submitted by Police report.

Ms. Erfurdt was not present. Under the Art Commission's "Hearing Procedure of Street Artist Violations," the Program Committee was authorized to hear the case in the artist's absence and possibly recommend the penalty for the violation for which the artist was charged.

Program Director Lazar submitted a copy of the Police incident report of December 21, 1994 written by Officer Craig Tom. Mr. Lazar also presented a January 9, 1995 letter from Ms. Erfurdt to him which stated that she was "in the process of moving" to a legal space when the officer cited her, and that she had received "an official notice that charges were dropped" and she "would not need to appear in court." Mr. Lazar stated the the Art Commission's administrative proceeding in this matter was separate from any criminal proceeding.

Officer Craig Tom testified to his report of December 21st. Before citing Ms. Erfurdt, he drove by the area and counted ten street artists in the area's nine legal spaces. He then encountered three unlicensed vendors across the street, at Sansome and Market. As he was citing these vendors, he witnessed Ms. Erfurdt across the street (in the street artist area) displaying her scarves on the concrete bench; there were customers trying on the scarves, and he watched her for fifteen minutes conversing with them. In all, Ms. Erfurdt was displaying items in the location for approximately twenty to thirty minutes. When he walked across the street, she saw him, packed up, and attempted to move when he approached her. He verified that she was the only artist, among the ten, who did not have a lottery slip for any of the nine spaces.

Commissioner Simon moved that Jamie Erfurdt be found in violation of the street artist ordinance by selling

in a location not designated by the Board of Supervisors and that Ms. Erfurdt's certificate be suspended for a period of three (3) weeks; the motion was seconded by Commissioner Keeler and unanimously approved.

C. **Inga Abramova - Certificate #4669.** Alleged violation: Selling in a location not designated by the Board of Supervisors (Stockton Street, east side, Geary to O'Farrell Streets - December 11, 1994).

Ms. Abramova was not present. Under the Art Commission's "Hearing Procedure of Street Artist Violations," the Program Committee was authorized to hear the case in the artist's absence and possibly recommend the penalty for the violation for which the artist was charged.

Lottery Committee Member Eunice Rodriguez testified to her January 23, 1995 letter-report describing Ms. Abramaova's alleged selling in an illegal location on December 11th; Mrs. Rodriguez also identified Ms. Abramova and her display in two photographs she took of her on that date: Ms. Abramova was selling in a nondesignated location next to Street Artist Zbigniew Doroszkiewicz who was identified by Mrs. Rodriguez as selling in legal space "Z-51." Mrs. Rodriguez testified that she asked Ms. Abramova to move three times, but that Ms. Abramova told her she was waiting for her mother to pick her up. According to Mrs. Rodriguez, Ms. Abramova was occupying the illegal location with her hats on full display for forty-five minutes, and at no time was her merchandise covered.

The Commissioners observed from the photos that the hats were completely on display and thereby were exposed for sale (as stated in the ordinance) in an illegal location.

Commissioner Simon moved that Inga Abramova be found in violation of the street artist ordinance by selling in a location not designated by the Board of Supervisors and that Ms. Abramova's certificate be suspended for a period of three (3) weeks; the motion was seconded by Commissioner Keeler and unanimously approved.

V **DISCUSSION ON RESTRICTING ARTISTS WHO FAIL TO PRODUCE THEIR CERTIFICATE AT THE LOTTERY FROM ENTERING THE LOTTERY**

Lottery Committee Members Giselle Downard, Virginia

Burris and Kathy Hallinan and Street Artists Ray Jones, Leah Mazor, and William Clark participated in a discussion with the Commissioners, and the following points were made: (1) The Lottery Committee should continue to allow for occasional human error on the part of an artist who forgets to bring their license to the lottery; (2) Lottery Members should continue to call in to the Program the name(s) of any artist(s) who did not have their licenses to show and were allowed into the lottery, so that the staff can verify whether they have valid licenses; (3) Action should be taken against any artist who tries to get into the lottery more than once without a license, and such offenses should be reported by a Lottery Member so that the Program Director could send a warning notice to the artist; (4) If such a person were found by staff to have an expired license, the Program Director could forward this information to the Police so that the person could be cited under MPC 869 (obstruction of thoroughfare).

Certification Clerk Worthy informed the Commissioners that only four out of the nine Lottery Members call the office regularly to report individuals let into the lottery without their licenses. Commissioner Simon asked Mr. Lazar to remind such members of their responsibility and to send a warning to any artist whose name appears more than once on the call-in sheets.

VI DISCUSSION ON ART COMMISSION'S AUTHORITY TO DENY ISSUANCE OF A CERTIFICATE TO FORMER CERTIFICATE-HOLDERS WHO FAILED TO SERVE THEIR CERTIFICATE'S SUSPENSION AND HAVE BEEN OBSERVED VIOLATING THE STREET ARTIST ORDINANCE

Street Artist William Clark stated his position that the Program Director should deny issuance of a license to a former certificate-holder who failed to serve his/her certificate's suspension and has been observed in violation of the street artist ordinance, until the artist requests a hearing to obtain a certificate and the Commission approves the request.

Commissioner Simon expressed a disinclination to grant such persons a new certificate, as their selling without a license may be considered as taking away income from those artists who are paying for licenses.

VII DISCUSSION ON PROPOSAL FOR PERMANENT STREET ARTIST SPACES

Market Street, north side, Battery to Sansome Streets - 10 spaces: Proposal to request ten (10) temporary Christmas season spaces to be made permanent. (Proposal from Street Artist Debra King)

The Program Director reported that the ten spaces have for many years been designated by the Board of Supervisors as temporary Christmas season spaces, and that these spaces meet all of the safety regulations of the street artist ordinance.

Mr. Robert Kraft, Construction Coordinator of Cushman & Wakefield of California, Inc., asked that the Art Commission not recommend approval of the spaces for the following reasons: (1) The spaces are near the Zellerbach building which is a landmark, and the Commission should honor this; (2) street artists would detract from this landmark; (3) Cushman and Wakefield is concerned that the artists will next ask for the spaces they once had as Christmas spaces across the street by Citicorp and the BART entrance. Mr. Kraft asked that the ten spaces be left as Christmas spaces and not be made permanent.

Street Artist Debra King stated that the ten spaces are not near the BART entrance, and that they are alongside the curb of Market Street, leaving more than enough room for the coffee kiosk and the bicycle messengers who gather at the kiosk.

Program Director Lazar reminded the Commissioners that the Program relinquished the three spaces adjacent to Citicorp several years ago when Citicorp said they would not negotiate over the three until the existing hordes of unlicensed vendors on Sansome Street disappeared, and that the Street Artists Program has been the one agency to take the initiative to enforce the law against these violators by paying for off-duty Police officers to cite them and confiscate their merchandise.

Street Artist Kathy Hallinan said that her Program spent $5,000 on the Police to clean up that street and other areas and requested the Committee to ask Mr. Kraft to tell that to his people.

Street Artist William Clark proposed that the spaces be designated as permanent for one year subject to review.

Commissioner Keeler directed Mr. Lazar to contact the

Zellerbach building people and to discuss the proposal for the ten spaces with them.

VIII DISCUSSION AND APPROVAL AND/OR REVISIONS TO 95-96 STREET ARTISTS PROGRAM BUDGET

Street Artist Ray Jones told the Commissioners that the Program's 1995-96 budget was well thought out, and that the $15,000 earmarked for the Police Department to enforce the ordinance has a positive effect on the Program because it protects the artists and also deters artists from harrassing other artists.

Commissioner Simon moved to approve the Street Artists Program's 1995-96 budget; the motion was seconded by Commissioner Keeler and unanimously approved.

The meeting adjourned at 5:12 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, March 8, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Gallery
POPS Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commissioners present: Emily Keeler, Tom Flynn, Terri Simon

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Keeler, Chair, called the meeting to order at 3:00 p.m.

I HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY PROGRAM DIRECTOR TO REQUEST CITY ATTORNEY FOR DRAFT ORDINANCE AMENDING BUSINESS TAX ORDINANCE TO REQUIRE TAX COLLECTOR TO EXEMPT FROM PAYMENT OF ANNUAL REGISTRATION CERTIFICATE FEE ANY SMALL BUSINESS WHOSE GROSS RECEIPTS DERIVED FROM SAN FRANCISCO ARE LESS THAN $15,000 AND TO REQUIRE TAX COLLECTOR TO APPLY SUCH EXEMPTION RETROACTIVELY FOR FIVE YEARS PRIOR TO ENACTMENT OF AMENDMENT

Program Director Lazar explained the background for this item. A street artist requested his help because the Tax Collector's Business Tax Division was requesting her to pay the annual registration certificate fee of $150 for each of the years 1992 and 1993 based on her business's total gross income rather than exclusively on the portion of that income which was derived from doing business in San Francisco as a street artist. The artist's total gross income for each of the years was over $15,000; had it been under $15,000, she would be exempt from paying the $150 fees. Although she submitted evidence that the San Francisco portion of her income was well under $15,000 and argued that she should be exempt from paying the fees, the Business Tax Division is authorized to consider a business's total gross which includes amounts made outside of San Francisco. Ordinance 538-88 states: "... 'gross receipts' means the total gross receipts of a business whether or not the gross receipts are taxable or are attributable to business within the City and County of San Francisco ..."

The Program Director stated that this was one of many street artists who, over the years, have told him that the San Francisco portion of their income was not the bulk of their income, that, to compensate for lean times on the street, they participated in fairs and shows outside of San Fran-

City and County of San Francisco

cisco; the income derived from these added to their San Francisco income often made for a total which was more than $15,000 and thereby made it mandatory for them to pay the Tax Collector's $150 fee. At the same time, such artists invariably were paying business registration and taxes on their sales to those counties outside of San Francisco in addition to paying the Tax Collector's business registration fee and the Art Commission's street artist certificate fee.

An irony in the business tax law, the Program Director noted, is that while the Tax Collector is allowed to consider a small business's entire gross receipts in levying the registration fee, the Tax Collector is allowed to consider only the San Francisco receipts in assessing any tax due.

To remedy these inequities, the Program Director was requesting approval to have the City Attorney's office draft an ordinance which would amend the Business Tax Ordinance by (1) requiring the Tax Collector to exempt from payment of the $150 annual registration fee any small business whose gross receipts derived from San Francisco are less than $15,000 and (2) by requiring the Tax Collector to apply such exemption to qualifying small businesses retroactively for five years.

Mr. Patrick Sha, administrator of the Business Tax Division, testified to the history of the various registration fees and exemption fees, his division's lack of manpower that would be necessary for discerning San Francisco vs. outside-San Francisco receipts, and the City's present collection of $9 million from 60,000 small businesses each paying the $150 registration fee. In response to a question put through the Chair by Street Artist William Clark, Mr. Sha said he did not know the percentage of the small businesses who make less than $15,000 in San Francisco. As for the proposed provision of a five-year retroactive exemption for such small businesses, Mr. Sha stated that it would not be consistent with the current provision which allows for only three years for a business to file for a refund in taxes.

Mr. Sha stated that the appeal process as currently provided for taxes could probably apply to any provision of the tax ordinance, even the registration fee.

Commissioner Flynn stated that if the appeal process has

not yet been tested for a small business's registration fee, it should be tested first before seeking to amend the ordinance. Also, it would be worthwhile to find out how many of the registered small businesses earn less than $15,000 in San Francisco and what portion of their earnings is made elsewhere.

Mr. Sha stated that if a street artist created a DBA ("doing business as") for himself/herself for San Francisco gross receipts only and these receipts amounted to less than $15,000, the artist would be required to pay only a $25 exemption fee for registration.

Commissioner Flynn moved that no action be taken on the Program Director's request, that the Program Committee not recommend an amendment to the business tax ordinance at this time, and that, in lieu of this, the Program Director explore means of informing street artists about the appeal process provided in the ordinance and coordinate with Mr. Sha in pursuing innovative methods for small business registration; the motion was seconded by Commissioner Simon and unanimously approved.

II **HEARING AND POSSIBLE MOTION TO APPROVE REQUESTS FOR PRIORITY ISSUANCE OF CERTIFICATE BY FORMER CERTIFICATE-HOLDERS**

A. **Michael Lloyd - Certificate # 2648** expired February 2, 1991; Mr. Lloyd's request was received by the Program on February 24, 1995. After stating that he had read Mr. Lloyd's appeal letter, Commissioner Flynn moved that Mr. Lloyd's request for priority issuance be approved with waiver of re-screening of his wares; the motion was seconded by Commissioner Simon and unanimously approved.

B. **Edward H. Cawthon - Certificate # 3867** expired November 29, 1991; Mr. Cawthon's request was received by the Program on February 28, 1995. After stating that he had read Mr. Cawthon's appeal letter, Commissioner Flynn moved that Mr. Cawthon's request for priority issuance be approved with waiver of re-screening of wares; the motion was seconded by Commissioner Keeler and unanimously approved.

III **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY APPLICANT TO DISAPPROVE RECOMMENDATION OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS AND TO APPROVE CERTIFICATION OF CRAFT ITEM**

Muni Janet Johnson, applicant. The Advisory Committee of Street Artists and Craftsmen Examiners on February 23, 1995 recommended Ms. Johnson for certification of "fabricated metal jewelry" and "handsewn bags" and did not recommend certification of "cast jewelry" because of the Art Commission's arts and crafts criteria adopted in 1977 which states, under "FABRICATED AND/OR CAST JEWELRY": "The craftsperson must make jewelry by fabricating and/or casting with raw materials ..." whereas Ms. Johnson requested to be certified to sell jewelry cast by an outside commercial casting company from molds of her own creation.

Ms. Johnson presented molds and finished cast pieces and maintained she would not plagiarize another artist's work if she had her pieces cast by someone else, and that she was not buying pieces from a commercial house. She presented a letter from Roger Baird of Community College on her behalf.

Advisory Committee Members Mathew Porkola and Josie Grant stated that while the Committee liked Ms. Johnson's work aesthetically, the work had to be evaluated exclusively by the existing criteria (which precludes an artist from having his/her work cast by anyone but him/herself).

Street Artist William Clark, a cast metal jeweler, asked that the Advisory Committee's recommendation to not certify Ms. Johnson be upheld for the following reasons: (1) Ms. Johnson, like he did, could save her money and buy casting equipment; (2) in the meantime, she could rent casting facilities in San Francisco and do her own casting; (3) if outside-casting were allowed, then outside-wax carving would eventually be approved; (4) if outside-casting were approved, the door would open for multiple pieces to flood the street artist marketplace and would put one-of-a-kind cast jewelry makers like Mr. Clark out of business; and (5) the job of casting is a significant and integral part of the craft of cast jewelry making which, as per the definition of "handcrafted item" in the street artist ordinance, should continue to require the originator to do his/her own casting.

Street Artist Therese Koller stated that if Ms. Johnson's request were approved, the door would open for mass-produced items in the Program which would seriously jeopardize the integrity of the Program. Also, a street artist, by definition in the street artist ordinance, must make what he/she sells, not have what they sell made by someone else.

Commissioner Flynn pointed out that the Commission's current criteria for "PHOTOGRAPHY" and "PRINTMAKING" allows for muliples to be made by an outside commercial producer. Program Director Lazar responded that those criteria will be re-examined, as has already been discussed, by the Advisory Committee as soon as it finishes with its hearings and recommendations on amending the current "BEAD-CRAFT" criteria.

The Commissioners acknowledged the aesthetics of Ms. Johnson's pieces but affirmed that the Commission had to adhere to the current criteria or a floodgate of "exceptions" to the criteria would be opened if one exception were allowed.

Commissioner Simon moved that Ms. Johnson's request for disapproval of the Advisory Committee's recommendation and approval for certification of "cast jewelry" be disapproved; the motion was seconded by Commissioner Flynn and unanimously approved.

Commissioner Simon stated that Ms. Johnson could re-submit her cast jewelry to the Advisory Committee for the Committee's verification as to whether it could be certified as "fabricated jewelry" because of Ms. Johnson's predominant input of fabrication of the pieces. Should the Advisory Committee not recommend certification of the items as "fabricated jewelry", Ms. Johnson could appeal the recommendation to the Program Committee.

IV INTERVIEWS OF APPLICANTS FOR FIVE (5) POSITIONS ON ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

It was stated that the Program Committee, starting with this meeting, would be interviewing over the next several months candidates for the five positions on the Advisory Committee and would recommend at a later meeting the names of three candidates for each position for nomination by the full Art Commission to the Mayor who must select and appoint the members. One member must be an art educator.

The Committee interviewed, examined the wares of, and allowed questions through the Chair from the audience to, the following incumbents who requested to continue serving on the Advisory Committee:

A. **Josie Grant** (serving since 1988). ART EDUCATOR. **Crafts:** drawing; painting; mural painting; printmaking; bead-

stringing; dressmaking; also "familiar with" ceramics, leathercraft, sculpture, lost wax casting, and lithography.

B. **Wendy McPhee** (serving since 1988). **Crafts:** computer graphics; animation; stained glass; leathercraft; silkscreening; ceramics; lost wax casting; photography; quilting.

C. **Mathew Porkola** (serving since 1981). **Crafts:** leathercraft; blown glass; metalsmithing; fused-glass jewelry; woodcraft.

D. **Susan Tibbon** (serving since 1991). ART EDUCATOR. **Crafts:** drawing; painting; etching; sewing; candlemaking; paper jewelry.

The Commissioners requested that, for the next meeting, a half hour be set aside for street artists to express their views about the composition and duties of the Advisory Committee.

The meeting adjourned at 5:25 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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Suite 70
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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, April 12, 1995
3:00 p.m.
Art Commission Conference Room

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO RECOMMEND APPROVAL OF ACCEPTANCE OF PROPOSAL BY FISHERMAN'S WHARF MERCHANTS ASSOCIATION THAT STREET ARTISTS PROGRAM DIRECTOR BE AUTHORIZED TO SEEK A BOARD OF SUPERVISORS RESOLUTION DESIGNATING SIX (6) SELLING SPACES ON HYDE STREET, WEST SIDE, AT BEACH STREET FOR STREET ARTISTS IN EXCHANGE FOR RELINQUISHING TWO (2) SELLING SPACES ("B-40" and "B-41") ON BEACH STREET AT LARKIN STREET FOR THE PLACEMENT OF AN INFORMATION KIOSK MANUFACTURED BY JC DECAUX COMPANY**

II **HEARING ON PROPOSALS FOR PLACEMENT OF J C DECAUX INFORMATION KIOSK ON BEACH STREET AT OR NEAR LARKIN STREET AS ALTERNATIVES TO RELINQUISHING STREET ARTIST SELLING SPACES**

III **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE**

A. **Reinaldo Coronado - Certificate # 3840.** Alleged violations: (1) Selling in locations not designated by Board of Supervisors (11/26/94 and 1/21/95); (2) Conducting business in a disorderly, improper or hazardous manner (11/26/94 allegedly assaulting a street artist).

B. **Gerard Cracas - Certificate # 1908.** Alleged violation: Selling in a location not designated by Board of Supervisors (2/12/95); second offense. (submitted by Police)

C. **Martin Butschek - Certificate # 3300.** Alleged violation: Selling in a location not designated by Board of Supervisors (2/12/95); second offense. (submitted by Police)

D. **Xiu Juan Ji - Certificate # 4605.** Alleged violation: Selling in locations not designated by Board of Super-

Continued.....

City and County of San Francisco

visors (2/12/95; 2/25/95); second offense. (submitted by Police)

E. Elden Deza - Certificate # 4438. Alleged violation: Selling in a location not designated by Board of Supervisors (2/17/95). (submitted by Police)

F. Ningyu Lisa Jiang - Certificate # 4636. Alleged violation: Selling in a location not designated by Board of Supervisors (2/12/95). (submitted by Police)

IV REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTFICATE

A. Murielle Pascaud - Certificate # 4457 expired December 28, 1993; Ms. Pascaud's request was received by Program March 14, 1995; request for waiver of re-screening.

V REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

VI CONTINUATION OF INTERVIEWS OF APPLICANTS FOR FIVE (5) POSITIONS ON ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

	CANDIDATE	ART EDUCATOR	CRAFT EXPERIENCE
4:30 p.m.	**Marlena Genau**	No	fabricated and cast metal jewelry; sculpture
4:45 p.m.	**Cele Henzel**	No	silkscreen clothing; graphic arts; computer graphics
5:00 p.m.	**Denise Mediavilla**	No	painting; cast and soldered jewelry; cloisonne; carving; bookbinding; leathercraft
5:15 p.m.	**Irene Rubin**	No	fimo/sculpy craft; silkscreening; jewelry; painting

VII HEARING AND POSSIBLE MOTIONS TO APPROVE RECOMMENDATIONS FROM STREET ARTISTS LOTTERY COMMITTEE (MARCH 2, 1995 LOTTERY COMMITTEE MEETING) TO AMEND LOTTERY RULES

A. Recommendation to amend <u>Occupancy Rule</u> by eliminating requirement for artist to leave part or all of his/her working display to "mark" assigned space.

Continued.....

B. Recommendation to eliminate unofficial "mini-mini lottery" on Sundays and to amend Time of Lotteries Rule by eliminating Secondary Wharf Lottery on Sundays and Secondary Downtown Lottery on Saturdays.

C. Recommendation to amend Occupancy Rule by eliminating the provision for a "marked" (assigned) space to remain vacant until the assigned artist uses it; to provide for a lottery to be held, after the noon lottery, to distribute vacant assigned spaces among non-assigned artists who would occupy the spaces until such time as the assigned artists occupy the spaces.

D. Recommendation to amend Occupancy rule by eliminating the requirement that the lottery to reassign spaces not properly marked takes place at 12:15 p.m. and to provide that such lottery takes place after the Lottery Member completes the noon walk and arrives on Beach Street.

VIII COMMENTS FROM THE AUDIENCE REGARDING THE COMPOSITION AND DUTIES OF THE ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

IX ADJOURNMENT

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

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American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Sonia Gray in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, May 10, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

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A G E N D A

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I **HEARING AND POSSIBLE MOTIONS TO APPROVE RECOMMENDATIONS FROM STREET ARTISTS LOTTERY COMMITTEE (MARCH 2, 1995 LOTTERY COMMITTEE MEETING) TO AMEND LOTTERY RULES** (continued from 4/12/95 Program Committee meeting)

A. Recommendation to amend Occupancy Rule by eliminating requirement for artist to leave part or all of his/her working display to "mark" assigned space.

B. Recommendation to amend Occupancy Rule by eliminating the requirement that the lottery to reassign spaces not properly marked takes place at 12:15 p.m. and to provide that such lottery shall take place after the Lottery Member completes the noon walk and arrives on Beach Street.

3:30 p.m. II **HEARINGS ON ALLEGED VIOLATIONS OF THE STREET ARTIST ORDINANCE** (rescheduled from 4/12/95 Program Committee meeting)

A. Reinaldo Coronado - Certificate # 3840. Alleged violations: (1) Selling in locations not designated by Board of Supervisors (11/26/94 and 1/21/95); (2) Conducting business in a disorderly, improper or hazardous manner (11/26/94 allegedly assaulting a street artist).

Continued to June

B. Gerard Cracas - Certificate # 1908. Alleged violation: Selling in a location not designated by the Board of Supervisors (2/12/95); second offense. (submitted by Police)

C. Martin Butschek - Certificate # 3300. Alleged violation: Selling in a location not designated by the Board of Supervisors (2/12/95); second offense. (submitted by Police)

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III **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR PERMANENT DESIGNATION OF TWO (2) SELLING SPACES ON BEACH STREET, NORTHWEST CORNER, AT HYDE ST. FOR**

STREET ARTISTS CERTIFIED BY THE ART COMMISSION, PURSUANT TO BOARD OF SUPERVISORS RESOLUTION NO. 940-91. (continued from 1/11/95 Program Committee meeting)

IV **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR TEMPORARY SIX-MONTH DESIGNATION OF THREE (3) SELLING SPACES ON STOCKTON STREET, WEST SIDE, AT O'FARRELL STREET** (continued from 2/8/95 Program Committee meeting)

V **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

VI **REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE AND WAIVER OF RE-SCREENING OF WARES**

A. **Lyn Magnuson - Certificate # 2320** expired October 22, 1993; Mr. Magnuson's request was received by Program on March 15, 1995.

B. **Keith Donube - Certificate # 3708** expired December 8, 1990; Mr. Donube's request was received by Program on April 21, 1995.

VII **CONTINUATION OF INTERVIEWS OF APPLICANTS FOR FIVE (5) POSITIONS ON ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS**

	CANDIDATE	ART EDUCATOR	CRAFT EXPERIENCE
4:30 p.m.	**Alicia Keshishian**	No	ceramics; jewelry; enameling; anodizing; printmaking; photography; weaving; graphics
4:45 p.m.	**David Forth**	No	graphics/illustration; computer graphics
5:00 p.m.	**Nancy Anderson**	No	silk dyeing; painting; drawing
5:15 p.m.	**Tamara Vargas**	Yes	ceramics; jewelry; textiles; metal and wood sculpture

VIII **ADJOURNMENT**

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, June 14, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

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I HEARING ON ALLEGED VIOLATIONS OF THE STREET ARTIST ORDINANCE (rescheduled from 4/12/95 Program Committee meeting)

A. **Reinaldo Coronado - Certificate # 3840.** Alleged violations: (1) Selling in locations not designated by Board of Supervisors (11/26/94 and 1/21/95); (2) Conducting business in a disorderly, improper or hazardous manner (11/26/94 allegedly assaulting a street artist).

II REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

III CONTINUATION OF INTERVIEWS OF APPLICANTS FOR FIVE (5) POSITIONS ON ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

	CANDIDATE	ART EDUCATOR	CRAFT EXPERIENCE
3:45	**Alicia Keshishian**	No	ceramics; jewelry; enameling; anodizing; printmaking; photography; weaving; graphics
4:00	**Elizabeth M. Scotta**	No	drawing; jewelry; printmaking; photography; pottery;quilting; silversmithing; quilting
4:15	**Jacqueline Thompson**	Yes	graphic arts; printmaking; photography; ceramics; metal jewelry
4:30	**Colleen Chafian**	No	metal fabricated jewelry; beadstringing; pottery
4:45	**Anna Kee**	Yes	ceramics; drawing; painting;

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	Anna Kee (continued)		printing
5:00	**K. C. Rosenberg**	Yes	silkscreening; painting; printmaking
5:15	**Angela Wong**	No	sculpting; painting; wood-working
5:30	**Shelley Rideout**	No	jewelry; textiles; hand-crafted clothing

IV REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN IS-ISSUANCE OF CERTIFICATE AND WAIVER OF RE-SCREENING WARES

A. Phillip J. Zamorra - Certificate # 3084 expired May 1, 1986; Mr. Zamorra's request was received by Program on May 17, 1995.

B. Douglas Merritt - Certificate # 4330 expired May 9, 1993; Mr. Merritt's request was received by Program on May 17, 1995.

C. Nina Hollenberg - Certificate # 4695 expired May 7, 1995; Ms. Hollenberg's request was received by Program on May 26, 1995.

V ADJOURNMENT

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STREET ARTISTS PROGRAM COMMITTEE

June 14, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

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M I N U T E S

Commissioners present: Emily Keeler, Terri Simon

Commissioner absent: Tom Flynn

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Keeler, Chair, called the meeting to order at 3:14 p.m.

I **REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE AND WAIVER OF RE-SCREENING WARES**

A. **Phillip A. Zamorra - Certificate # 3084** expired May 1, 1986; Mr. Zamorra's request was received by the Program on May 17, 1995. Commissioner Simon moved that Mr. Zamorra's request for priority with waiver of re-screening be approved; the motion was seconded by Commissioner Keeler and unanimously approved.

B. **Douglas Merritt - Certificate # 4330** expired May 9, 1993; Mr. Merritt's request was received by the Program on may 17, 1995. Commissioner Simon moved that Mr. Merritt's request for priority with waiver of re-screening be approved; the motion was seconded by Commissioner Keeler and unanimously approved.

C. **Nina Hollenberg - Certificate # 4695** expired May 7, 1995; Ms. Hollenberg's request was received by Program on May 26, 1995. Commissioner Simon moved that Ms. Hollenberg's request for priority with waiver of re-screening be approved; the motion was seconded by Commissioner Keeler and unanimously approved.

II **HEARING ON ALLEGED VIOLATIONS OF THE STREET ARTIST ORDINANCE** (rescheduled from 4/12/95 Program Committee meeting)

Reinaldo Coronado - Certificate # 3840. Alleged violations: (1) Selling in locations not designated by Board of Supervisors (11/26/94 and 1/21/95); (2) Conducting business in a disorderly, improper or hazardous manner (11/26/94 allegedly assaulting a street artist).

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Program Director Lazar referred to the letter-complaint he had received on January 26, 1995 and forwarded to the Commissioners, which alleged that Reinaldo Coronado sold in an illegal location on Jefferson Street on November 26, 1994 and on January 21, 1995, and also alleged that on November 26th he assaulted Street Artist Virginia Burris. Mr. Lazar submitted a photo he received with the complaint which showed Mr. Coronado allegedly selling in an illegal location on November 26th.

Street Artist Virginia Burris testified to having written the letter and taken the photo on November 26th. She stated that Mr. Coronado was in a non-designated location on Jefferson Street, by the drain pipe of the Wharfside Building, that he saw her taking the picture, asked her what she was doing. When she replied "I'm taking your picture," she said that he grabbed her sleeve and held her there. She tried to leave, but he went for her left hand which held the camera. "Since he was going for my camera as well as holding my arm at the same time ... it felt like a dangerous position, so I felt like running, so I put my arms backward and ran out of my coat ... And he was still standing there holding my coat."

Ms. Burris also testified to Mr. Coronado's allegedly pushing another artist against her on the Saturday following this year's Valentine's Day and allegedly attempting to pick a fight with Street Artist Ray Jones.

Street Artist Ray Jones testified to having witnessed everything to which Ms. Burris had testified with the exception of the alleged incident of Mr. Coronado's pushing another artist against Ms. Burris. He stated that Ms. Burris's photographing Mr. Coronado was exercising her right as a street artist to supply evidence for the Art Commission to correct street artist violations. He further stated that after she photographed him, Mr. Coronado "grabbed her arm" and reached for her other arm "and the only way for Ginny to escape was to leave her coat"; she "left him standing there holding her coat."

In answer to questions from the Commissioners, Mr. Jones stated that he was at Ms. Burris's display, fifteen to twenty feet away from the incident. Afterward he attempted to speak to Mr. Coronado about the incident, and Coronado said to him that "he had the right to break her camera." The Saturday after Valentine's Day (1995), at about 10:00 a.m., he said, Mr. Coronado approached him and threatened

him by asking if he wanted to fight him; at that point, at Ms. Burris's request, an artist went to Franceschi's restaurant to call 911, and Mr. Coronado got into a car and left. Mr. Jones asked the Commissioners to revoke Mr. Coronado's certificate.

The Program Director stated that he had notified another witness who had been mentioned in the complaint, but the witness was not present.

Ms. Camille Cook stated that she was Mr. Coronado's wife and his attorney. She cross-examined Mr. Jones and Ms. Burris and stated that the credibility of the two was in question as they were competition for Mr. Coronado and, for that reason, wanted his license revoked.

Under Ms. Cook's cross-examination, Mr. Jones stated that he saw Mr. Coronado touch Ms. Burris's arms during the incident of November 26th, and that when Mr. Coronado later invited Mr. Jones to fight him, Mr. Coronado put his hand on Mr. Jones's chest.

The Commissioners stated that they would consider only the incidents for which Mr. Coronado was charged.

Under Ms. Cook's cross-examination, Ms. Burris denied making any threatening remarks to Mr. Coronado nor any problems for him and stated that he touched her.

Ms. Cook questioned Mr. Coronado in Spanish and translated his answers into English. She translated that he never sold illegally, that Ms. Burris had been "spying" on his work for a long time so when he saw her with a camera he asked her not to take a picture, and that he tried to get up close to her asking her why she was taking a picture; she walked away, "I took her hand to ask for an explanation," "I don't remember exactly what happened," "I ended up with her jacket in my hand"; "the reason I did that is because I wanted her to explain to me why she was taking a picture" and whether the Program Director or someone else had directed her to do so; "she escaped like a thief," "she ran away laughing, and then when I went up to her later again to ask her for an explanation, she refused to talk to me."

Mr. Coronado added that he had seen Ms. Burris sell illegally, and that she falsified ten lottery slips in December.

In response to a question by Commissioner Keeler, Mr. Coronado stated (translated by Ms. Cook) that he was not selling in an illegal space on the day he was photographed. He said that the photo showed it to be approximately 6 p.m.

In response to a question by Commissioner Simon, Mr. Coronado stated that the location in which he was photographed was a legal one and that it was either space # 2 or # 3.

Commissioner Keeler asked Mr. Coronado if he understood that the picture taking was part of the process to help document illegal selling; he acknowledged this so long as the photography was done by the Program Director or a Police officer but not by his competition.

Commissioner Simon acknowledged that Mr. Coronado admitted that he touched Ms. Burris and stated that there was no reason for any street artist to come at another artist and take hold of their wrist and coat, and that Mr. Coronado ended up with Ms. Burris's coat because he grabbed her. Ms. Cook denied that her client touched Ms. Burris. Commissioner Simon, however, noted that Ms. Cook herself had translated Mr. Coronado's admission. The Commissioner went on to say that if he had not touched her, he would not have ended up with her coat in his hand.

Commissioner Keeler stated that there was no reason in civilized interaction for a person to pull or grab another, that if Ms. Burris was doing something wrong, there was other recourse. However, it was clear that no one has a right to touch someone else.

Ms. Cook wanted it entered into the record that her client had not testified to having grabbed Ms. Burris.

Appearing not as witnesses to the incident but as supporters of Mr. Coronado's character were Street Artists Kathy Hallinan, Riccardo Amodei, Robert Siu, Maria Hillius, and David Samuel.

In response to questions by the Commissioners, Ms. Burris testified to the photo she took and that its image of Franceschi's Restaurant across the street, in the background, proved that Mr. Coronado was not in a legal space. Commissioner Simon, however, noted that the photo was taken at an angle from Mr. Coronado, was not very clear, and there were no other witnesses present to corroborate his location.

Commissioner Simon moved that the charge against Reinaldo Coronado of allegedly selling in locations not designated by the Board of Supervisors be dismissed due to lack of preponderance of evidence, that Mr. Coronado be found in violation of the street artist ordinance for having conducted business in a disorderly, improper or hazardous manner (improper, menacing behavior), that Mr. Coronado's certificate be suspended for a period of three (3) weeks, and that Mr. Coronado be warned that any future finding of his having touched by physical aggressive behavior anyone while conducting business as a street artist will warrant consideration of revocation of his certificate; the motion was seconded by Commissioner Keeler and unanimously approved.

Commissioner Keeler stated that it was important that the street artists understood that the Commissioners did not condone any kind of touching or menacing behavior on the street. Furthermore, in consideration of the continued existence of the Program itself, the Commissioners held a strict posture against any street artist situation involving menacing behavior or violence.

Ms. Cook asked that Mr. Coronado's suspension be deferred to after the summer selling season. She cited the fact that her client and she had appeared for the hearing scheduled for April 12th, that the hearing was continued because witnesses had informed the Program Director that they were unable to attend that month, and that this resulted in her client's having to serve a suspension during the height of the tourist season which, she said, was intentional on the part of the witnesses against her client. The Commissioners denied the request.

III CONTINUATION OF INTERVIEWS OF APPLICANTS FOR FIVE (5) POSITIONS ON ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

The Committee interviewed, examined the wares of, and allowed questions through the Chair from the audience to, the following applicants wishing to serve on the Advisory Committee:

A. **Alicia Keshishian. Crafts:** ceramics; jewelry; enameling; anodizing; printmaking; photography; weaving; graphics.

B. **Elizabeth M. Scotta. Crafts:** drawing; fabricated metal jewelry; printmaking; photography; pottery; quilting.

C. **Jacqueline Thompson. (art educator) Crafts:** graphic arts; printmaking; photography; ceramics; fabricated metal jewelry.

D. **Colleen Chafian. Crafts:** beadcraft; fabricated metal jewelry; embroidery; quilting

E. **Anna Kee. (art educator) Crafts:** ceramics; drawing; painting; photography.

F. **Angela Wong. Crafts:** soldered and stone jewelry; sculpting; painting; woodworking.

G. **Shelley Rideout. Crafts:** handcrafted clothing; textiles; jewelry.

K. C. **Rosenberg** had cancelled her interview.

IV **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

No report was given.

The meeting adjourned at 5:34 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, July 12, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
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San Francisco, California

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I HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY FORMER CERTIFICATE-HOLDER FOR ISSUANCE OF CERTIFICATE

John Hulton - Certificate # 4311 expired October 7, 1993.

On June 29, 1995, Mr. Hulton's wares were examined by the Advisory Committee of Street Artists and Craftsmen Examiners which recommends that Mr. Hulton be certified for "bead-craft." However, because Mr. Hulton has been observed allegedly violating the provisions of the street artist ordinance and the ordinance provides for issuance of a certificate unless charges have been filed of an applicant's "violation of the applicable provisions of the Municipal Code," the Street Artists Program shall conduct a hearing to consider whether the Art Commission should issue a certificate to Mr. Hulton.

II REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

III HEARING ON "PROPOSAL TO SET UP A FAIR POLICY AND PROCEDURE FOR THE OFFICE OF DIRECTOR TO RECEIVE AND PROCEED ON COMPLAINTS FOR VIOLATION" (item requested June 2, 1995 by Riccardo Amodei, Kathy Hallinan, Manolo Aulis, Leah Mazor, Therese Koller, Robert Siu, David Campos, Mike Martinov, Mario Hernandez, David Mason, Oscar Bevilaqua, Sandra Blenio, Charles Strobino; as of July 5, 1995, no such proposal has been received by the Program office)

IV HEARING TO CONSIDER "ALTERNATIVES TO ENFORCE STREET ARTIST ORDINANCE IN AN EFFICIENT MANNER"
(item requested by vote of 8 to 5 members of Street Artists Liaison Committee on June 13, 1995; at the same meeting, Liaison Committee voted 7 to 5 to recommend not restricting or limiting current 1995-96 Program budget expenditure of $15,000 for Police services)

City and County of San Francisco

V ADJOURNMENT

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

July 12, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

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Commissioners present: Emily Keeler, Tom Flynn

Commissioner absent: Terri Simon

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Keeler, Chair, called the meeting to order at 3:05 p.m.

Commissioner Flynn introduced Director of Cultural Affairs Richard Newirth to the street artists and thanked him for attending the meeting.

I HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY FORMER CERTIFICATE-HOLDER FOR ISSUANCE OF CERTIFICATE

John Hulton - Certificate # 4311 expired October 7, 1993. Program Director Lazar reported that Mr. Hulton telephoned the office that day and said he would not be able to attend the meeting. Commissioner Keeler tabled the request.

II REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Re-designation of two permanent selling spaces on Beach Street, at Hyde. The Program Director reported that he presented legislation to the Board of Supervisors Government Efficiency and Labor Committee on July 11th to re-designate, on a permanent basis, the two selling spaces known as "0" and "00" on Beach Street, north side, at Hyde Street, and received unanimous approval.

Port Commission approval of selling spaces on Jefferson Street. After months of study, the Port Commission on June 27th re-approved 13 of the previously designated 15 spaces on Jefferson Street, removed spaces "J-8" and "J-9" (at the request of The Cannery because of the proximity of the spaces to a doorway), approved 2 new spaces known as "J-1A" and "J-1B" located between existing spaces "J-1" and "J-2," adopted for Jefferson Street all regulations of the street artist ordinance relating to

City and County of San Francisco

spaces, and adopted further requirements, including the prohibition of any street artist violator from participating in the Art Commission's lottery for spaces on Jefferson Street.

Street Artists Larry Rosenbloom, Therese Koller, James Millard, and Kathy Hallinan expressed dissatisfaction with the Port's action, the Port personnel, The Cannery's General Manager, the Street Artists Program Director, and the City Attorney. They expressed disagreement with the June 12th City Attorney written clarification on the Port's jurisdiction over street artist spaces and the status of street artist spaces in violation of the street artist ordinance. Street Artist William Clark opposed them and supported the actions of the Port, the Art Commission staff, and the City Attorney.

Commissioner Flynn acknowledged the artists' expressed frustration over the Port's not re-designating "J-8" and "J-9" and moved that the Art Commission and the Program Director begin the process of trying to reinstate the spaces; the motion was seconded by Commissioner Keeler.

In response to the four artists' criticism of the City Attorney's office and the Program Director, Commissioner Flynn stated that it is not exceptional for the City Attorney's office to take a long time in researching and responding to a question, and the Program Director has consistently displayed fairness and concern for the artists, the Program, and the Art Commission.

Mr. Clark said that because of the time involved in the Program staff's efforts in getting the Jefferson Street spaces re-designated, he has had to wait for months for the staff and the Program Committee to hear and consider his proposal for three spaces downtown. He asked that the dissatisfied artists be reminded that they can hire their own private attorney to advocate for spaces with the Port and dispute the City Attorney's clarification with the City Attorney.

The Program Director respectfully declined to work with the artists on re-negotiating with the Port, citing the priority of his mandated responsibilities which are to administer and enforce the street artist ordinance.

Commissioner Flynn withdrew his motion and moved the follow-

ing: that the Street Artists Liaison Committee designate a negotiating team of no more than three street artists to enter into discussions with the appropriate bodies to regain spaces "J-8" and "J-9" of Jefferson Street, that, based on these discussions, any proposal must be reviewed and approved by the Street Artists Program Committee of the Art Commission before it can be represented as being endorsed by by the Art Commission, that the membership of this negotiating team be distributed in writing to the Street Artists Program Committee members, the Director of Cultural Affairs, and the Street Artists Program Director, that all correspondence and summaries of telephone calls be copied to the Program Director and the Director of Cultural Affairs, and that this motion in no way sets a precedent to authorize the Liaison Committee or any street artist to enter into or purport to represent the Art Commission in negotiating new spots or to re-designate spots for the Street Artists Program; the motion was seconded by Commissioner Keeler and unanimously approved.

Commissioner Keeler clarified the spirit of the motion, that while the Liaison Committee was being asked to work on this project, it was critical for all their work to be communicated with the Commissioners and the Program Director.

Commissioner Flynn further clarified the spirit of the motion, that the Liaison Committee commence negotiating, but warned the Liaison Committee against taking any action that would misrepresent the Art Commission.

Hearings on proposed JC Decaux kiosks for Fisherman's Wharf. The Program Director reported that he attended that morning's Department of Public Works hearing on a proposed JC Decaux kiosk for Beach Street, north side, at Larkin, and that the DPW staff withdrew the proposal in deference to the existing mobile Cable Car Canteen who has a Police permit for the site.

DPW's issuance of a permit for a kiosk to be located on Hyde Street, west side, at Beach, is being appealed by the Federal Park Service before the Board of Permit Appeals on July 19th.

Street Artist James Millard requested that Program Director Lazar and/or an Art Commissioner attend the Board hearing and ask that DPW be overruled.

Commissioner Keeler moved that the Director of Cultural Affairs speak at the Board hearing.

Director of Cultural Affairs Newirth noted that the Commission and its Program Director's appeal of the previous permit for a kiosk on Beach Street (at Hyde) was engendered by the fact that the proposed kiosk would have been placed adjacent to existing street artist spaces, whereas the current proposal is for a location where there are no street artist spaces.

Commissioner Flynn amended the motion to recommend that the Director of Cultural Affairs and the Program Director assess the issue and, at their discretion, consider whether or not to represent the Art Commission on the issue before the Board of Permit Appeals; the motion was seconded by Commissioner Keeler and unanimously approved.

III **HEARING ON "PROPOSAL TO SET UP A FAIR POLICY AND PROCEDURE FOR THE OFFICE OF DIRECTOR TO RECEIVE AND PROCEED ON COMPLAINTS FOR VIOLATION"** (item requested June 2, 1995 by Street Artists Riccardo Amodei, Kathy Hallinan, Manolo Aulis, Leah Mazor, Therese Koller, Robert Siu, David Campos, Mike Martinov, Mario Hernandez, David Mason, Oscar Bevilaqua, Sandra Blenio, Charles Strobino)

The Program Director reported that no such proposal had been received by his office.

Mr. Mathew Porkola, member of the Advisory Committee of Street Artists and Craftsmen Examiners, asked that the enforcement be left as informal as possible and continue to allow members of his committee to occasionally go out on the street and monitor the arts and crafts being sold by the artists, interact with the artists, and give verbal warnings when necessary.

Commissioner Keeler tabled the item for consideration after the artists' busy summer season and expressed interest in receiving proposals in writing during the interim.

IV **HEARING TO CONSIDER "ALTERNATIVES TO ENFORCE STREET ARTIST ORDINANCE IN AN EFFICIENT MANNER"**

The Program Director explained that this item was requested by vote of 8 to 5 members of the Street Artists Liaison Committee on June 13, 1995, while at the same meeting,

the Liaison Committee went on record as voting 7 to 5 to recommend not restricting or limiting the current Program budget expenditure ($15,000) for Police services.

The Commissioners received comments from Street Artists Larry Rosenbloom, James Millard, Robert Clark, William Clark, David Samuel, Therese Koller, Kathy Hallinan, and Kristina Peterson. Mr. Samuel proposed that Police enforcement be eliminated from Beach Street since there are no street artist violators on Beach Street. Mr. Rosenbloom presented an argument against the Program's current rate of notifying and screening new applicants and expressed his disagreement with the advice given by the City Attorney on the matter.

Mr. Robert Clark credited the Police hired by the Program for making Jefferson Street "clean" of street artist violations and stated that most of the artists in attendance who were urging cutbacks in the Police enforcement have violated the law.

Commissioner Keeler moved that the Liaison Committee create a three-person subcommittee to receive input from the artists and bring to the Program Committee alternatives with respect to enforcing the street artist ordinance; the motion was seconded by Commissioner Flynn.

Commissioner Flynn amended the motion to provide that the Program Director prepare a questionnaire to survey the artists' views on the subject and distribute it in a way that is fair and encourages maximum participation; the amendment was seconded by Commissioner Keeler; the motion was unanimously approved.

The meeting adjourned at 6:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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STREET ARTISTS PROGRAM COMMITTEE

* SPECIAL MEETING

Wednesday, August 9, 1995 - 2:30 p.m.
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

A G E N D A

I DISCUSSION AND REVIEW OF CANDIDATES FOR ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

II ADJOURNMENT

City and County of
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25 Van Ness Ave. Suite 240, San Francisco, CA. 94102 tel. 415.252.2590 fax 415.252.2595

ACCESSIBILITY INFORMATION

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

SPECIAL MEETING

August 9, 1995 - 2:30 p.m.
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

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M I N U T E S

Commissioners present: Emily Keeler, Terri Simon

Commissioner absent: Emery Rogers

Staff present: Director of Street Artists Program Howard Lazar

Commissioner Keeler, Chair, called the meeting to order at 2:30 p.m.

I DISCUSSION AND REVIEW OF CANDIDATES FOR ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS

In considering candidates for five positions on the Advisory Committee of Street Artists and Craftsmen Examiners, the Commissioners reviewed the notes they had taken from interviewing 16 candidates on March 8, April 12, May 10, and June 14, 1995. The Commissioners discussed and reviewed the candidates' resumes.

The meeting adjourned at 3:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, August 9, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

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A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR TEMPORARY SIX-MONTH DESIGNATION OF THREE (3) SELLING SPACES ON STOCKTON STREET, WEST SIDE, AT O'FARRELL STREET** (continued from 5/10/95 Program Committee meeting)

II **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES**

A. **Leah Mazor - Certificate #4599.** Alleged violation: Selling in a location not designated by the Board of Supervisors (April 22, 1995) (report submitted by Police)

B. **Morine Singer - Certificate #4647.** Alleged violation: Selling in a location not designated by the the Board of Supervisors (April 22, 1995) (report submitted by Police)

C. **Hubert Emerson Ortis - Certificate #4656.** Alleged violation: Selling in a location not designated by the Board of Supervisors (June 24, 1995) (report submitted by Police)

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

IV **HEARING AND POSSIBLE MOTION TO APPROVE REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY IN ISSUANCE OF CERTIFICATE**

A. **Canute Davis - Certificate # 4678** expired June 29, 1995; Mr. Davis's request received by Program on June 30, 1995; request for waiver of re-screening.

V **HEARING AND POSSIBLE MOTION TO RECOMMEND TO THE MAYOR FIFTEEN (15) CANDIDATES FOR FIVE (5) POSITIONS ON ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS**

Continued...

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CANDIDATE INTERVIEWED	ART EDUCATOR	CRAFTS
1) **Josie Grant** (incumbent) (interv. 3/8/95)	yes	drawing; painting; printmaking; beadstringing; dressmaking; "familiar with" ceramics, leathercraft, sculpture, lost wax casting, lithography
2) **Wendy McPhee** (incumbent) (interv. 3/8/95)	no	computer graphics; animation; stained glass; leathercraft; silkscreening; ceramics; lost wax casting; photography; quilting
3) **Mathew Porkola** (incumbent) (interv. 3/8/95)	no	leathercraft; blown glass; metalsmithing; fused-glass jewelry; woodcraft
4) **Susan Tibbon** (incumbent) (interv. 3/8/95)	yes	drawing; painting; etching; sewing; candlemaking; paper jewelry
5) **Marlena Genau** (interv. 4/12/95)	yes	fabricated metal jewelry; sculpture
6) **Denise Mediavilla** (interv. 4/12/95)	no	painting; cast and soldered jewelry; cloisonne; carving; bookbinding; leathercraft; weaving; needlepoint
7) **Irene Rubin** (interv. 4/12/95)	no	fimo/sculpy craft; silkscreening; jewelry; painting
8) **David Forth** (interv. 5/10/95)	no	graphics/illustration; computer graphics; cartooning; prints on notecards
9) **Nancy Anderson** (interv. 5/10/95)	no	graphics; silkdyeing; sewing
10) **Alicia Keshishian** (interv. 6/14/95)	no	ceramics; jewelry; enameling; anodizing; printmaking; photography; weaving; graphics
11) **Elizabeth M. Scotta** (interv. 6/14/95)	no	drawing; fabricated metal jewelry; printmaking; photo-

Continued...

	CANDIDATE INTERVIEWED	ART EDUCATOR	CRAFTS
			graphy; pottery; quilting
12)	**Jacqueline Thompson** (interv. 6/14/95)	yes	graphic arts; printmaking; photography; ceramics; fabricated metal jewelry
13)	**Colleen Chafian** (interv. 6/14/95)	no	beadcraft; fabricated metal jewelry; embroidery; quilting
14)	**Anna Kee** (interv. 6/14/95)	yes	ceramics; drawing; painting; photography
15)	**Angela Wong** (interv. 6/14/95)	no	soldered and stone jewelry; sculpting; painting; woodcraft
16)	**Shelley Rideout** (interv. 6/14/95)	no	handcrafted clothing; textiles; jewelry

V ADJOURNMENT

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

August 9, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

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Commissioners present: Emily Keeler, Terri Simon

Commissioner absent: Emery Rogers

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Keeler, Chair, called the meeting to order at 3:05 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR TEMPORARY SIX-MONTH DESIGNATION OF THREE (3) SELLING SPACES ON STOCKTON STREET, WEST SIDE, AT O'FARRELL STREET** (continued from 5/10/95 Program Committee meeting)

Program Director Lazar reviewed his report on the proposed spaces given to the Committee on February 8, 1995 and reiterated two major reasons for requesting designation of the spaces: (1) All three would meet all of the public safety regulations provided in the street artist ordinance (Ord. 41-83); and (2) they would compensate temporarily for the loss of six prime, year-round selling spaces two blocks northward: the six spaces on Stockton at Post which have been eliminated due to re-construction of the building housing Dunhill's. The three proposed spaces could be subject to review by the Board of Supervisors after six months, similar to the Board's review process used for the temporary and later permanent designation of two Beach Street spaces.

Street artist William Clark stated that, for the 400 artists in the Program and the high turnouts at the lotteries, there were not enough prime spaces: not only is the Program sustaining a loss of the Dunhill spaces, but the Recreation and Park Department has not renewed its permission for the artists to use Justin Herman Plaza; and 21 spaces on Taylor Street have been poorly impacted by the City's recent allowance for tour buses to park there, blocking the sun and the public's view of the artists, and emitting fumes - without the agency responsible ever informing the Art Commission of its intention to make it a bus parking zone.

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Mr. Clark also emphasized that one of the initial purposes of founding the Street Artists Program was to help young people to make a good life for themselves, to direct them away from dope, prostitution, and theft. For this and other reasons, he asked that the artists and the store merchants cooperate in securing more selling spaces around town. Also, if there is a problem with any artist, the problem can be expeditiously removed thanks to the Program's recently enacted, stronger hearing procedure as well as the Program's funding of off-duty Police officers to enforce the ordinance.

Mr. Clark's final point was that all three proposed spaces would meet all of the fire and safety regulations of the ordinance, and, because of this, there was no reason for the artists to not have an opportunity to propose the spaces before the people who had enacted the regulations, the Board of Supervisors.

Mr. Edward Lawson, Executive Director of Union Square Association, stated that he spoke on behalf of the owners and tenants of The Limited building, and that his organization never asked that the number of street artists be decreased, no one has stated that the loss of the six Dunhill spaces would be permanent, there were still numbers of unused street artist spaces in the immediate area, and his group was opposed to the designation of the three spaces by The Limited building.

Mr. Lawson continued to explain his opposition: (1) There are problems on Stockton Street and Powell Street because these thoroughfares carry the most pedestrian traffic, especially during the Christmas season, and the problems are now going to be magnified because the City will be placing two DeCeaux kiosks, one in front of Great Western Bank and one near the entrance of The Limited, which will hinder pedestrian movement; to add three more "obstacles," street artist displays, on the block would be indefensible; and (2) there is an "understanding" that has existed between the City, the merchants, and the artists, since the beginning of the Program, that no more street artist spaces would be designated in the Union Square area; some exceptions to this have been the temporary Christmas spaces.

A man who identified himself as "Ali" representing Sanrio, 39 Stockton Street, said his store, which has existed for thirteen years, does not target customers but attracts them by virtue of its window displays; therefore, every

inch of the sidewalk without obstructions is important to the store. He complained about the expanding flower stands as encroachments on the thoroughfare.

Program Director Lazar stated that several years ago Police officers on Stockton Street showed him how one of the flower stands was violating its permit by expanding on the sidewalk and he witnessed the officers verbally warn the owner. Mr. Lazar further stated that until the Street Artists Program started paying $4,500 each Christmas season to the Police to "clean up" Stockton Street - which they succeeded in doing two Christmases ago - both sides of the street were crowded with displays of illegal (unlicensed) vendors whose sweaters, neckties, jewelry, and music tapes were in direct competition with the merchandise of the stores, and whose congestion clearly put the safety of pedestrians in jeopardy. This unchecked congestion used to be especially in front of The Limited building.

Street artist Eunice Rodriguez stated the presence of artists in the three proposed spaces would be, as it is in other locations, a deterrent to shoplifters. This is why, she said, Neiman Marcus likes having the artists by its store.

Former-street artist John Bass stated that the stores along Stockton and Powell Streets have continuously tolerated unlimited numbers of illegal vendors and musicians and never call the Police. Street artists, on the other hand, have borne the brunt of the task of calling the Police and even receiving the retaliations from the illegals. In response to Mr. Lawson's statement of unused spaces, Mr. Bass said that such spaces have been found to be commercially unviable.

Street artist Robert Clark countered Mr. Lawson's statement about an "understanding" between the City and the merchants by stating that Mr. Lawson was not involved in the creation of the Program in 1972, and, at that time and shortly thereafter, the Clarks and other artists met with Supervisor Quentin Kopp and officials of the Police and Fire Department who told the artists that they could continue to ask for any locations in the city so long as the locations would meet the police, fire, and safety regulations, and the Board would consider them. The artists were told that the regulations met with the fire and safety requirements for the public; therefore, Mr. Lawson's argument of "obstructions" was unfounded.

Mr. Clark stated that, with regard to obstructions, in recent years the downtown associations had set down on the sidewalks in the Union Square area large concrete tubs and planters of trees which, he said, are permanent obstructions on the sidewalks and were placed in locations denied to the street artists.

Mr. Clark also stated that the merchants' argument of unfair competition as a basis for opposing the spaces would be a violation of the State's anti-trust laws.

Ms. Ellen Kovak of Cushman, Wakefield, the managing agent of The Limited building, stated that her company was concerned about public safety, especially because of the anticipated kiosks, and asked whether the City could issue a hold-harmless statement to the building. Mr. Lazar responded that it would be possible to put such a provision in the legislation, as this had been done in the legislation designating spaces on Market Street adjacent to the Chevron building.

Commissioner Simon moved that the Commission approve the request to the Board of Supervisors for temporary six-month designation of three (3) selling spaces on Stockton Street, west side, at O'Farrell Street; the motion was seconded by Commissioner Keeler and unanimously approved.

II REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Mr. Lazar reported hearing of the recent arrest of a street artist who was handcuffed in front of the people he was sketching and taken to jail where he stayed for four hours - all for not having his street artist certificate or other identification with him. Mr. Lazar learned that the arresting officer was a replacement for one of the regular trained officers for the Art Commission's assignment and ignored the pleas of adjacent artists who were vouching for the artist's identity. Mr. Lazar stated that it was never the Commission's nor his request to have any street artist jailed or his work confiscated. With the cognizance of Commissioner Keeler and Director of Cultural Affairs Newirth, he wrote to supervising Sgt. Michael Thompson to request that the officer in question not be placed on the Commission's assignment, that only the regular, trained officers be utilized, and that in the event none of the regulars is available, the assignment be cancelled for that day.

The Commissioners expressed their disfavor of the incident; Commissioner Keeler called it "horrible ... direspectul" ... and "humiliating" for both the artist and the Commission.

III **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES**

Program Director Lazar reported that the Police Department had contacted him that morning to inform him that Officer Craig Tom, who witnessed and reported the incidents of violations allegedly committed by street artists Leah Mazor, Morine Singer, and Hubert Emerson Ortis, was not able to attend the meeting and testify due to pneumonia. Commissioner Keeler stated that the hearings on alleged violations would be continued to the following month.

IV **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE**

Canute Davis - Certificate # 4678 expired June 29, 1995; Mr. Davis's request was received by the Program on June 30, 1995; request for waiver of re-screening. Commissioner Simon moved that Mr. Davis's request for priority issuance with waiver of re-screening be approved; the motion was seconded by Commissioner Keeler and unanimously approved.

V **HEARING AND POSSIBLE MOTION TO RECOMMEND TO THE MAYOR FIFTEEN (15) CANDIDATES FOR FIVE (5) POSITIONS ON THE ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS**

Commissioner Simon moved that the following candidates, ranked in order of preference, be submitted to the Mayor for consideration in appointing five members to the Advisory Committee of Street Artists and Craftsmen Examiners:

Term 11/27/95 - 11/27/97
1) **Mathew Porkola** (incumbent)
2) Alicia Keshishian
3) Susan Tibbon

Term 11/27/94 - 11/27/96 (Art Educator Member)
1) **Josie Grant** (incumbent)
2) Susan Tibbon
3) Marlena Genau

Term 11/27/95 - 11/27/97
1) **Irene Rubin**

2) Alicia Keshishian
3) Susan Tibbon (incumbent)

Term 11/27/94 - 11/27/96
1) **Jacqueline Thompson**
2) Susan Tibbon
3) Marlena Genau

Term 11/27/95 - 11/27/97
1) **Anna Kee**
2) Susan Tibbon
3) Colleen Chafian

The motion was seconded by Commissioner Keeler and unanimously approved.*

Commissioner Simon moved for adjournment; the motion was seconded by Commissioner Keeler and unanimously approved.

The meeting adjourned at 4:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

* See attached list of candidates' arts and crafts.

At its meeting of August 9, 1995, the Street artists Program Committee voted to recommend to the full Art Commissinon that the following candidates, ranked in order of the Committee's **preference,** be submitted to the Mayor for consideration in appointing five members to the Advisory Committee of Street Artists and Craftsmen Examiners:

Term 11/27/95 - 11/27/97

1)	**Mathew Porkola** (incumbent)	- leathercraft; blown glass; metalsmithing; fused-glass jewelry; woodcraft
2)	Alician Keshishian	- ceramics; jewelry; enameling; anodizing; printmaking; photography; weaving; graphics
3)	Susan Tibbon	- drawing; painting; etching; sewing; candlemaking; paper jewelry

Term 11/27/94 - 11/27/96 (Art Educator Member)

1)	**Josie Grant** (incumbent)	- drawing; painting; printmaking; beadstringing; dressmaking
2)	Susan Tibbon	- (see above for crafts)
3)	Marlena Genau	- fabricated metal jewelry; sculpture

Term 11/27/95 - 11/27/97

1)	**Irene Rubin**	- fimo/sculpey craft; silkscreening; jewelry; painting
2)	Alicia Keshishian	- (see above for crafts)
3)	Susan Tibbon (incumbent)	- (see above for crafts)

Term 11/27/94 - 11/27/96

1)	**Jacqueline Thompson**	- graphic arts; printmaking; photography; ceramics; fabricated metal jewelry
2)	Susan Tibbon	- (see above for crafts)
3)	Marlena Genau	- (see above for crafts)

Term 11/27/95 - 11/27/97

1)	**Anna Kee**	- ceramics; drawing; painting; photography
2)	Susan Tibbon	- (see above for crafts)
3)	Colleen Chafian	- beadcraft; fabricated metal jewelry; embroidery; quilting

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, September 13, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

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A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA; AT FLOWER MART AREA (6TH AND BRANNAN STREETS); AND AT HARVEY MILK PLAZA (MARKET AND CASTRO STREETS); FOR NOVEMBER 15, 1995 - JANUARY 15, 1996**

Program Director's Proposal:

1) **Downtown Area** - The **same 59 spaces** approved by Board of Supervisors the previous year (Res. No. 945-94); for the fourth consecutive year, the Street Artists Program to pay for Police officers and van (Special Law Enforcement Services) out of its license fees for the two-week period prior to Christmas in order to confiscate the merchandise of **unlicensed** vendors and to verify that licensed street artists are selling in legal spaces;

2) **Flower Mart Area** - 6th Street, east side, at Brannan Street: **6 spaces**; Brannan Street, north side, at 6th Street: **2 spaces**; all spaces to be exempted from Section 2405(c)(16), Ord. 41-83 requiring maintenance of a 10-foot pedestrian passageway; in addition, Brannan Street spaces to be exempted from Section 2405(c)(6) requiring 12-foot distance from doorway, and Section 2405(c)(11) requiring 5-foot distance between spaces.

3) **Harvey Milk Plaza** Castro and Market Streets) the **same 7 spaces** formerly approved by the Board of Supervisors and Public Utilities Commission for December 1, 1992 - February 28, 1993: 3 spaces on upper level; 4 spaces on lower level exempted from Section 2405(c)(6) which prohibits street artists from selling within 12 feet from outer edge of any entrance to a building.

II **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES** (continued from 8/9/95 meeting)

Continued.....

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A. **Leah Mazor - Certificate #4599.** Alleged violation: Selling in a location not designated by the Board of Supervisors (April 22, 1995) (report by Police)

B. **Hubert Emerson Ortis - Certificate #4647.** Alleged violation: Selling in a location not designated by the Board of Supervisors (June 24, 1995) (report by Police)

III **HEARING AND POSSIBLE MOTION TO DISMISS MEMBER FROM LOTTERY COMMITTEE; POSSIBLE MOTION TO PROHIBIT MEMBER FROM RUNNING FOR ELECTION TO LOTTERY COMMITTEE FOR ONE YEAR**

A. **Therese Koller - Certificate #4434.** Alleged infringement of Lottery procedure: Failure to check street artist certificates while conducting lottery sign-in for spaces (August 12, 1995)

IV **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES**
At this time, members of the Public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.

VI **ADJOURNMENT**

ACCESSIBILITY INFORMATION

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

September 13, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

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POPS Symphony Concerts
Public Art

Street Artists Licenses
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415.252.2581

Commissioners present: Emery Rogers, Terri Simon

Commissioner absent: Emily Keeler

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

The meeting was chaired by Commissioner Simon who introduced Commissioner Rogers as member of the Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA; AT FLOWER MART AREA (6TH AND BRANNAN STREETS); AND AT HARVEY MILK PLAZA (MARKET AND CASTRO STREETS); FOR NOVEMBER 15, 1995 - JANUARY 15, 1996**

Program Director Lazar introduced his proposal, which had been submitted last January by street artist Barbara Pope, for temporary spaces at the **Flower Mart area.** Referring to a map he had drawn after investigating the area with staff, Mr. Lazar proposed for 6th Street, east side, at Brannan Street: **6 spaces**; for Brannan Street, north side, at 6th Street: **2 spaces**; all spaces to be exempted from Section 2405(c)(16), Ord. 41-83, requiring maintenance of a 10-foot pedestrian passageway; in addition, Brannan Street spaces to be exempted from Section 2405(c)(6) requiring 12-foot distance froom doorway, and Section 2405 (c)(11) requiring 5-foot distance between spaces.

Mr. Angelo Stagnaro, Jr., Vice President and General Manager of San Francisco Flower Growers Association, Inc., voiced opposition to the proposal. Referring to his letter-reply to the Program Director, Mr. Stagnaro stated that the proposed locations would be dangerous for both artists and customers because of the Brannan Street yellow zone, the 6th street red zone, delivery trucks, and products being moved back and forth all day on the sidewalks.

Street artist Barbara Pope, referring to her letter to the Program Director, stated that the mart's delivery activities commence at 3 a.m. and end after 8 a.m.; the requested

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spaces would not be by the mart's main entrances but would be by the cafe where pedestrians are and the pedestrians and artists would be safe; and the artists would not be taking away viable income from the mart's merchants.

Officer Tom Mandelke of Southern Station stated that he routinely patrols the 6th and Brannan area and has observed that it is a heavily trafficked area with cars coming off the adjacent Highway 280 off-ramp, not slowing down, and people carrying large bouquets and other merchandise from the mart. He said that crowds having to walk around the street arist displays could, if they had to step off the sidewalk, get hit by the speeding cars.

Commissioner Rogers moved that the proposal for the Flower Mart area spaces be disapproved and deleted from the Program Director's proposal for temporary holiday spaces; the motion was seconded by Commissioner Simon and unanimously approved.

The Program Director introduced his proposal for spaces at **Harvey Milk Plaza:** the **same 7 spaces** formerly approved by the Board of Supervisors and Public Utilities Commission for December 1, 1992 - February 28, 1993. These comprise 3 spaces on the upper (street) level; and 4 spaces on the lower level again exempted from Section 2405(c)(6) which prohibits street artists from selling within 12 feet of the outer edge of any entrance to a building.

The Commissioners read a letter sent by Mr. Gerald Abbott of Merchants of Upper Market which stated the organization's unwillingness to support the proposal because one of its members, whose store sells handmade jewelry, was "concerned about the selling of comparable goods in direct competition with some members." The letter further stated that the organization could support the proposal if assurance would be given that the spaces at Harvey Milk Plaza would be restricted for usage by artists "selling items not offered anywhere in the neighborhood."

Speaking in support of the proposal were street artists Daniel Turner and Robert Clark who stated that Harvey Milk had been a friend of his and had tried to obtain more selling spaces for the artists; because of this, it would be an honor for him to have spaces in the Plaza.

Commissioner Rogers moved that the Program Director's proposal for temporary holiday spaces at Harvey Milk Plaza

be approved for submittal to the Board of Supervisors; the motion was seconded by Commissioner Simon and unanimously approved.

The Program Director introduced his proposal for the **Downtown area:** the **same 59 spaces** approved by the Board of Supervisors the previous year (Resolution No. 945-94); for the 4th consecutive year, the Street Artists Program to pay for Police officers and a van (Special Law Enforcement Services) out of its license fees for the two-week period prior to Christmas in order to confiscate the merchandise of unlicensed vendors and to verify that licensed street artists are selling in legal spaces.

The Commissioners noted that no representative from any of the 32 store merchants, merchant or building owner associations who had been notified for the hearing was present.

Commissioner Rogers moved that the Program Director's proposal for temporary holiday spaces in the Downtown area be approved for submittal to the Board of Supervisors; the motion was seconded by Commissioner Simon and unanimously approved.

II **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES** (continued from 8/9/95 meeting)

A. Leah Mazor - Certificate #4599. Alleged violation: Selling in a location not designated by the Board of Supervisors (April 22, 1995) (report by Police).

Officer Craig Tom testified to having cited Ms. Mazor for having her display set up adjacent to 481 Jefferson Street in an illegal area which now has spaces "J-1A" and "J-1B." He stated that he obtained the lottery list of those artists assigned to locations and confirmed that Ms. Mazor was not assigned to any space in the area. He further stated that she told him she received lottery number 53 and that it had not been good enough to get her a good space. The officer said she had been cooperative with him. According to his incident report, Ms. Mazor's "folding table and jewlery/silk display" was "set up in front of her."

The Program Director submitted a copy of an excerpt

from his inspection logbook of October 26, 1994 and stated that on this earlier occasion he had observed Ms. Mazor selling in an illegal location on the same block of Jefferson Street.

Ms. Mazor stated that she did not deny she was in the location for which she was cited, that when she saw the officer she began to load her display back into her car, and that, since that time, she has not violated any of the rules. She pointed out that the citation was given in April; she asked that she be given the opportunity to continue to sell.

Commissioner Rogers moved that Leah Mazor be found in violation of the street artist ordinance for having sold in a location not designated by the Board of Supervisors and that Ms. Mazor's certificate be suspended for a period of three weeks; the motion was seconded by Commissioner Simon and unanimously approved.

B. **Hubert Emerson Ortis - Certificate #4647.** Alleged violation: Selling in a location not designated by the Board of Supervisors (June 24, 1995) (report by Police).

The Commissioners noted that Mr. Ortis was not present and that the artist had been notified that, according to the Art Commission's Hearing Procedure of Street Artist Violations, failure to appear at the hearing might result in a Program Committee recommendation of the penalty for the violation of which the artist was charged.

Officer Craig Tom testified that he cited Mr. Ortis for selling in the illegal area between spaces "J-1" and "J-2," and that "J-1" and "J-2" were rightfully occupied as confirmed, he said, by the lottery sign-in sheet. He further testified that Mr. Ortis's display was open and Mr. Ortis was sitting behind it in a seat. The officer's incident report stated Mr. Ortis "was attempting to sell handmade earrings and rings."

The Program Director submitted a copy of an excerpt from his inspection logbook of October 26, 1994 which records that, on that earlier occasion, Mr. Ortis was observed selling in an illegal location on the same block of Jefferson Street.

Commissioner Rogers moved that Hubert Emerson Ortis be found in violation of the street artist ordinance for having sold in a location not designated by the Board of Supervisors and that Mr. Ortis's certificate be suspended for a period of three weeks; the motion was seconded by Commissioner Simon and unanimously approved.

III HEARING AND POSSIBLE MOTION TO DISMISS MEMBER FROM LOTTERY COMMITTEE; POSSIBLE MOTION TO PROHIBIT MEMBER FROM RUNNING FOR ELECTION TO LOTTERY COMMITTEE FOR ONE YEAR

Therese Koller - Certificate #4434. Alleged infringement of lottery procedure: Failure to check street artist certificates while conducting lottery sign-in for spaces (August 12, 1995).

Ms. Koller was not present. Street artist Kathy Hallinan submitted a letter signed by Ms. Koller. The Program Director reported that Ms. Koller had left a message on the Program's voice mail on September 8th which stated that she had not received notice of her hearing and learned of it by receiving the Committee's agenda, and that she would be out of town.

The Program Director stated that, after consulting with the City Attorney's office on the Art Commission's authority in this matter, he was advised to notify Ms. Koller by certified mail for a rescheduled hearing for next month and to inform her that if she fails to appear and, in the future,is elected to the Lottery Committee, the Program would recommend to the Art Commission that she not be approved as a member until a hearing is held on the present complaint.

Commissioner Simon asked that the hearing be rescheduled for October.

IV REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

The Program Director referred to the complaint submitted by several artists against street artists Virginia Burris and Ray Jones alleging that on January 28, 1995, Ms. Burris, a member of the Lottery Committee, had entered the expired certificate of Ray Jones into the lottery and obtained and sold in a space with Mr. Jones. After investigating the complaint, the Program Director had determined

that a strong possibility existed of Ms. Burris's action being unintentional since Mr. Jones's certificate had expired only one day before and the fact that many artists who petitioned the Commission for priority in obtaining a new certificate have stated, over the years, in their hearings that they hadn't known their certificates had expired because they had forgotten to look at them. The Program Director chose to issue Ms. Burris a warning. Since that time, two artists wrote urging a hearing on the matter; and the Program Director submitted their requests and his own notes on the investigation to the Program Committee, requesting a determination on whether the Committee should hold a hearing.

Commissioner Simon stated that such a hearing would be calendared for October.

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES**

Street artist Michael Granatt proposed that the staff investigate future sites for street artist spaces on 3rd Street adjacent to Yerba Buena Gardens. He said no commercial activity faced the location, so there would be no stores to object to the presence of the artists.

Street artist Eunice Rodriguez proposed that the staff investigate the possibility of obtaining three or four spaces on the east side of Stockton Street adjacent to Virgin Records. She also proposed six spaces on 4th Street, west side, Mission to Howard Streets.

Street artist Kathy Hallinan endorsed the Committee's decision to hear the Virginia Burris/Ray Jones matter and criticized the City Attorney's clarification of the Program Director's role of being analagous to a prosecutor's authority to select violation cases for hearing and to dismiss others with warning.

Former-street artist John Bass told the Commissioners that since they serve pro bono and have limited time to take up all the issues of the Street Artists Program, if there were no one to screen all the complaints that come to the office, the Commissioners would soon become unable to act. For this reason, there has to be someone to make decision calls on what cases should be submitted for hearing or not; such a person has to be like a prosecutor, and the

Program Director was doing his job well.

Street artist Robert Clark told the Commissioners that he has submitted, for the Committee's October agenda, a proposed rule to give the Program Director authority to immediately dismiss any member of the Lottery Committee upon complaint of the member's having violated a lottery rule, and to make the Program Director a hearing officer to decide on reinstatement of the member.

The meeting adjourned at 4:15 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, October 11, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING AND POSSIBLE MOTION TO FIND AN INFRINGEMENT OF LOTTERY RULE BY FORMER LOTTERY COMMITTEE MEMBER WHILE SERVING PREVIOUSLY AS MEMBER

A. Therese Koller - Certificate #4434. Alleged infringement of Lottery procedure (Lottery Rule VIII): Failure to check street artist certificates while conducting lottery sign-in for spaces (August 12, 1995)

II HEARING AND POSSIBLE MOTION TO DISMISS MEMBER FROM LOTTERY COMMITTEE AND PROHIBIT MEMBER FROM RUNNING FOR ELECTION TO LOTTERY COMMITTEE FOR ONE YEAR DUE TO ALLEGED INFRINGEMENT OF LOTTERY PROCEDURE; HEARING AND POSSIBLE MOTION TO SUSPEND CERTIFICATE FOR VIOLATION OF ORD. 41-83

A. Virginia Burris - Certificate # 2354. (1) Alleged infringement of lottery procedure (Lottery Rule VIII): Failure to check an artist's certificate and entering said certificate into the lottery (January 28, 1995); (2) Alleged violation of ordinance (Ord.41-83, Sec. 7(a)): Assisting in obtaining a space for an artist whose certificate had expired and selling in said space.

III HEARING AND POSSIBLE MOTION TO SUSPEND CERTIFICATE FOR ALLEGED VIOLATION OF STREET ARTIST ORDINANCE

A. Ray Jones - Certificate # 4546. Alleged violation of ordinance (Ord. 41-83, Section 2406): Obtaining a lotterized space and selling in said space with an expired certificate.

IV HEARING AND POSSIBLE MOTION TO DISMISS MEMBER FROM LOTTERY COMMITTEE AND PROHIBIT MEMBER FROM RUNNING FOR ELECTION TO COMMITTEE FOR ONE YEAR DUE TO INFRINGEMENT OF ORDINANCE

A. Leah Mazor - Certificate # 4599. Possible motion to

CITY AND COUNTY OF SAN FRANCISCO

dismiss based on 9/13/95 Program Committee finding of violation of street artist ordinance and upon Lottery Rule VII which states that any infringement of the street artist ordinance or the lottery rules by any Lottery Committee member "may result, after a hearing conducted by the Art Commission, in dismissal."

V RE-HEARING AND POSSIBLE MOTION TO SUSPEND CERTIFICATE FOR ALLEGED VIOLATION OF STREET ARTIST ORDINANCE

A. **Hubert Emerson Ortiz - Certificate # 4647.** Alleged violation: Selling in a location not designated by the Board of Supervisors (June 24, 1995). (Re-hearing ordered by Program Director, by authority of Ord. 291-94, after finding that artist failed to appear at 9/13/95 hearing and has, for good cause, subsequently requested another hearing.)

VI HEARINGS AND POSSIBLE MOTIONS TO APPROVE REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY ISSUANCE OF CERTIFICATE WITH WAIVER OF RE-SCREENING OF WARES

A. **Janice M. Keleher - Certificate # 4303** expired September 24, 1993; Ms. Keleher's request received September 21, 1995.

B. **Kathleen Peabody - Certificate # 4645** expired December 14, 1995; Ms. Peabody's request received September 21, 1995.

VII HEARING ON STREET ARTIST-PROPOSED AMENDMENTS TO LOTTERY RULES (hearing without motion to adopt)

A. **Eliminate election of Lottery Committee members and replace election with selection of members by lot** (amending Lottery Rule V, "ELECTION OF LOTTERY COMMITTEE").

B. **Adopt an amendment to provide that any street artist who fails to produce a valid certificate at the sign-in for spaces shall be prohibited from obtaining a space** (amending Rule VIII, "LOTTERY PROCEDURE").

C. **Eliminate provision for Art Commission dismissal of any Lottery Committee member who infringes the Lottery rules or ordinance, and replace with provision for Program Director to immediately dismiss any such member based upon complaint and to authorize Program Director**

to act as hearing officer on requests for reinstatement to the Committee (amending Rule VII, "INFRINGEMENTS OF GUIDELINES").

D. Adopt an amendment to provide for suspension of certifcate of any Lottery Committee member who is found to have violated any of the procedures for conducting the lottery or the sign-in for spaces (amending Rule VII, "INFRINGEMENTS OF GUIDELINES").

VIII HEARING AND POSSIBLE MOTION TO ADOPT AMENDMENT TO LOTTERY RULE VIII, "LOTTERY PROCEDURE," TO PROVIDE FOR TWO (2) LOTTERY COMMITTEE MEMBERS PER DAY FOR CONDUCTING THE LOTTERIES, ONE MEMBER TO CONDUCT THE WHARF LOTTERY AND ONE MEMBER TO CONDUCT THE DOWNTOWN LOTTERY, DURING THE PERIOD OF NOVEMBER 15 - JANUARY 15 (amendment recommended by vote of Lottery Committee at 9/7/95 meeting)

IX REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

X PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES
At this time, members of the Public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.

VI ADJOURNMENT

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STREET ARTISTS PROGRAM COMMITTEE

October 11, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

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M I N U T E S

Commissioners present: Emery Rogers, Terri Simon

Commissioner absent: Emily Keeler

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

The meeting was chaired by Commissioner Simon who who convened the meeting at 3:00 p.m.

I HEARINGS AND POSSIBLE MOTIONS TO APPROVE REQUESTS BY FORMER CERTIFICATE-HOLDERS FOR PRIORITY ISSUANCE OF CERTIFICATE WITH WAIVER OF RE-SCREENING OF WARES

A. Janice M. Keleher - Certificate # 4303 expired September 24, 1993; Ms. Keleher's request was received by the Program on September 21, 1995. Ms. Keleher was present and answered questions by the Committee. Commissioner Rogers moved that Ms. Keleher's request for priority issuance with waiver of re-screening of wares be approved; the motion was seconded by Commissioner Simon and unanimously approved.

B. Kathleen Peabody - Certificate # 4645 expired December 14, 1994; Ms. Peabody's request was received by the Program on September 21, 1995. Ms. Peabody was present and answered questions by the Committee. Commissioner Rogers moved that Ms. Peabody's request for priority issuance of certificate with waiver of re-screening of wares be approved; the motion was seconded by Commissioner Simon and unanimously approved.

II HEARING AND POSSIBLE MOTION TO FIND AN INFRINGEMENT OF LOTTERY RULE BY FORMER LOTTERY COMMITTEE MEMBER WHILE SERVING PREVIOUSLY AS MEMBER

Therese Koller - Certificate # 4434. Alleged infringement of Lottery procedure (Lottery Rule VIII): Failure to check street artist certificates while conducting lottery sign-in for spaces (August 12, 1995).

Program Director Lazar reported that on June 23, 1995 he

CITY AND COUNTY OF SAN FRANCISCO

wrote to Lottery Committee member Therese Koller informing her that the Program had received two complaints alleging that on three occasions she had refused to check street artist certificates at the lottery's sign-in for spaces. The Program Director's letter requested that she implement the lottery rules and guidelines and warned her that any further complaint received by the Program regarding her failure to implement the rules would be referred to the Program Committee for a hearing to consider dismissing her from the Lottery Committee. On August 9th, the Program received a letter from Ms. Koller stating that she "was never legitimately informed of the October 1993 amendment" the Commission adopted mandating the person assigning the spaces to check the certificates of artists receiving spaces. Nevertheless, according to the Program's telephone logbook, Ms. Koller during 1994 called in on eight occasions to report the names of artists who had not had their certificates to show at the sign-in for spaces.

While Ms. Koller, in her letter, acknowledged with a "thank you for informing" her "that there is in fact an amendment to check licenses," the Program on August 14th received a new complaint alleging that on August 12th Ms. Koller conducted the lottery, signed in artists, and did not check the certificates of "at least a dozen" artists. The matter was calendared for the Program Committee's meeting last month and was re-scheduled for the present meeting after Ms. Koller informed the office that she had not received the Program's notification sent to her.

In the interim of the two scheduled meetings, Ms. Koller's term on the Lottery Committee expired. The purpose of the hearing presently scheduled was to determine whether Ms. Koller had violated a lottery rule while serving previously on the Lottery Committee; if such finding be made, and should Ms. Koller in the future be elected to the Lottery Committee, the Program would schedule a hearing for her before the Program Committee to consider dismissing her based on the finding of the October 11th hearing.

In response to questions from the Commissioners, Ms. Koller stated that she had already checked the artists' certificates prior to the sign-in and had not needed to check them again. She further stated that many certificates she is able to remember and can tell the date they expire. She stated that she requested the rule in writing and has never seen it, that she was expected to do her job while "you're expected not to do your job," and that she was

"supposed to be hounded because you all want me to go along with stuff that really is outrageous ..." and "petty."

Street artists Maria Hillius and Kathy Hallinan supported Ms. Koller's actions; Ms. Hallinan stated there was a "communication gap" in procedures in checking the certificates, and that she never saw Ms. Koller not check certificates.

Street artist Robert Clark testified to having filed the October 14th complaint against Ms. Koller after several weekends of watching her not check certificates. He further stated that several meetings had been conducted at the Art Commission of which Ms. Koller and Ms. Hallinan did not attend and, during these, it had been decided that certificates would be checked at the sign-in for spaces and not at the beginning of the lottery. The benefit of this procedure, he said, was for the participating artists, and not the lottery workers, to know that the checking of certificates would be made in front of them. He emphasized that Ms. Koller did not have the right to implement the rule in her own way when the Commission had already approved the way it would be implemented.

Mr. Clark stated that on August 12th he witnessed her deliberately not check the certificates. He asked the Commissioners to ascertain whether she intended to implement the rule in the way the Commission had decided.

Street artist Eunice Rodriguez testified that she had to telephone the Program office, because Ms. Koller had refused to do so, with the names of five artists who had not shown their certificates at the sign-in, and the office verified that two of these had expired certificates. Mrs. Rodriguez supported the Commission's rule: it was important that the check be made.

Street artist Virginia Burris testified that Ms. Koller had been trying to show off her prowess of memory, that when she told Ms. Burris her certificate's expiration date without looking at it, she was five days off. Ms. Burris stated that Ms. Koller's memory was not reliable.

The Program director stated that his June 23rd warning letter to Ms. Koller had quoted the wording of the rule requiring a checking of certificates prior to an artist's signing in for a space.

Commissioner Simon stated that it was important that the

existing rules be followed. To Ms. Koller she stated that when there had been discussion on the proposed rule, Ms. Koller could have attended and given her comments. The rule, however, was voted on, everyone knew of it, and Ms. Koller had responded to the Program Director's letter as if she were aware of the rule. While Ms. Koller was checking certificates, the Commissioner stated, she was not doing so at the time the artists were signing in for their spaces, which is what the rule requires. If Ms. Koller did not like the rule, her options were to not apply for membership on the Lottery Committee or to approach the Commission with a proposal to change the rule.

Commissioner Rogers stated that it did not appear that having to check the artists' certificates at the sign-in was difficult.

Commissioner Rogers moved that Ms. Koller be found to have infringed a lottery rule, Lottery Rule VIII, while serving previously as a member of the Lottery Committee; the motion was seconded by Commissioner Simon and unanimously approved.

To Ms. Koller, Commissioner Simon stated that if Ms. Koller were to run for election to the Lottery Committee, approval of her membership would have to come before the Program Committee.

III **HEARING AND POSSIBLE MOTION TO DISMISS MEMBER FROM LOTTERY COMMITTEE AND PROHIBIT MEMBER FROM RUNNING FOR ELECTION TO LOTTERY COMMITTEE FOR ONE YEAR DUE TO ALLEGED INFRINGEMENT OF LOTTERY PROCEDURE; HEARING AND POSSIBLE MOTION TO SUSPEND CERTIFICATE FOR VIOLATION OF ORD. 41-83**

Virginia Burris - Certificate # 2354. (1) Alleged infringement of lottery procedure (Lottery Rule VIII): Failure to check an artist's certificate and entering said certificate into the lottery (January 28, 1995); (2) Alleged violation of ordinance (Ord. 41-83, Sec. 7(a)): Assisting in obtaining a space for an artist whose certificate had expired and selling in said space.

The Program Director explained that this case had come to him early in the year as a complaint from street artist Kathy Hallinan who alleged that Lottery Committee member Virginia Burris, allowed to enter the name of her disabled friend Ray Jones, had entered Mr. Jone's name on the day after his certificate had expired. Ms. Burris did not show Mr. Jones's certificate but told Ms. Hallinan, who was

conducting the lottery, that he was nearby in the car. Ms. Burris obtained a space for Mr. Jones and, as a result, was able to share it with him: it was alleged that they both sold in the space.

The Program Director investigated the complaint and spoke with all parties involved. He was told that Mr. Jones's certificate had not been with them when Ms. Burris obtained the space - it had been left at home - and neither Ms. Burris nor Mr. Jones had been aware of its expiration because neither had looked at it. The Program Director chose to issue a warning to Ms. Burris. He chose not to issue a warning to Mr. Jones because at the time of the incident, Mr. Jones was out of the Art Commission's jurisdiction. The basis for giving Ms. Burris a warning was the fact that warnings had been given to other violators of the ordinance - in fact, a warning had been given to Ms. Hallinan and two other artists a year before after the Program Director photographed them selling in illegal locations. Furthermore, the City Attorney had advised the Program Director to be selective in submitting cases to the Program Committee in consideration of limited Commissioners' time and Program budget constraints, that the Program Director should submit as a priority those cases of repeated offense or serious nature. This advice had been supported by the Program Committee over the past two years in encouragement to give warnings, whenever prudent, to first-time offenders. In Ms. Burris's case, the Program Director felt that there was a strong possibility that the offense had not been intentional, that it was possible that neither she nor Mr. Jones had looked at the certificate, and that this reasoning was consistent with testimony received by the Program Committee throughout the years from former certificate-holders seeking priority certificates: such artists invariably told the Committee their old certificates had expired because they had failed to look at them and read the expiration date.

The Program Director's decision was not a popular one. Ms. Hallinan and another artist Riccardo Amodei had written, with supporting signatures of fourteen other artists, for a hearing with the Program Committee and Ms. Burris's dismissal from the Lottery Committee as well as suspension of certificates of both Ms. Burris and Mr. Jones. The Program Committee granted the request for hearing at the previous month's meeting.

Street artist Kathy Hallinan submitted a letter and stated that the incident occurred on the first sunny weekend when

she, Ms. Hallinan, was running the lottery. Ms. Burris came up to her and told her that Ms. Jones's certificate was in the van, and she obtained the last space on Jefferson Street for him. When Ms. Hallinan called the office the following week, she found out that Mr. Jones's certificate had expired the day before Ms. Burris obtained the space for him.The sign-up sheet was evidence which Ms. Hallinan presented to the Program Director. When she later inquired as to the progress of his investigation into the matter, she received three varying stories from him. Ms. Hallinan questioned why it took so long for this matter to be heard by the Program Committee when other cases had been dealt with.

Commissioner Simon stated that the reason it had taken so long was that the Commissioners had been so busy with other issues that there had not been time to get to this one until now.

Street artist Virginia Burris stated that when she had been caught selling in an illegal location, she had received a three-week suspension whereas Ms. Hallinan received only a warning. Ms. Burris disputed Ms. Hallinan's testimony by saying that the incident had occurred not on a beautiful day but on a rainy day; she had told her that Mr. Jones and she did not have his certificate with them and that Mr. Jones was in the car; Mr. Jones had left the certificate on the table at home the night before, and they had not paid attention to its expiration date, although they had known its expiration would be soon; and if Ms. Hallinan had really thought they had Mr. Jones's certificate with them, she would have come to their stand at noon to check it, but she did not.

Street artist Riccardo Amodei stated that Mr. Jones had known exactly what he was doing, that he had an expired certificate. Mr. Amodei went on to say that he himself had received a three-week suspension for selling in an illegal location.

Street artist Leah Mazor stated that Mr. Jones had known his certificate's expiration date because Ms. Burris had told her that he was upset with the Program and was considering not renewing the certificate.

Street artist Maria Hillius stated that Ms. Burris, a member of the Lottery Committee, knew the rule about checking certificates, and that she, Ms. Hillius, knew when her

husband's certificate expires.

Street artist Therese Koller stated that both Ms. Burris and Mr. Jones were accustomed to showing their certificates.

Street artist Hubert Emerson Ortis stated that most of the artists present had personality differences, that there wasn't an artist present who had not "gotten away with something through the years," and that the Commission should drop the issue with Ms. Burris.

Commissioner Rogers stated his observations: (1) It was not difficult to check certificates according to the Commission's rule, and it should be done; (2) every person who carries a license for their profession knows when it expires, and that was why the Commissioner was dubious of the excuse that the artists in question did not know of the certificate's expiration; and (3) he felt that Ms. Burris had doubled her chances of getting a good space.

Commissioner Rogers moved that Ms. Burris be found to have infringed a lottery procedure, Lottery Rule VIII, and that be dismissed from the Lottery Committee and prohibited from running for election to the Committee for one year; the motion was seconded by Commissioner Simon and unanimously approved.

Commissioner Simon stated to Ms. Burris that while it was Ms. Burris's word against Ms. Hallinan's, Ms. Burris, as a member of the Lottery Committee, had been duty-bound to verify expiration dates of certificates.

IV HEARING AND POSSIBLE MOTION TO SUSPEND CERTIFICATE FOR ALLEGED VIOLATION OF STREET ARTIST ORDINANCE

Ray Jones - Certificate # 4546. Alleged violation of ordinance (Ord. 41-83, Section 2406): Obtaining a lotterized space and selling in said space with an expired certificate. Mr. Jones was not present.

Street artist Kathy Hallinan stated that a controversy had existed with Mr. Jones and Virginia Burris as to whether he was going to renew his certificate, and yet the day after it expired, they entered his number into the lottery; when everyone found out he didn't have a valid certificate, he decided to renew it on the tenth (last) day of its renewal grace period.

Street artist Therese Koller questioned why the Commission was taking action against Mr. Jones when it had not taken any action against those artists whom she had reported the previous year who had chosen spaces in the lottery with expired certificates. She also didn't see why she had to show up for a hearing (on her alleged violation) when none of these other artists had to).

Commissioner Rogers moved it be found that Ray Jones violated the street artist ordinance, Ordinance 41-83, Section 2406, by obtaining a lotterized space and selling in the space with an expired certificate, and that a warning be issued to Mr. Jones against any future such violation; the motion was seconded by Commissioner Simon and unanimously approved.

V **HEARING AND POSSIBLE MOTION TO DISMISS MEMBER FROM LOTTERY COMMITTEE AND PROHIBIT MEMBER FROM RUNNING FOR ELECTION TO COMMITTEE FOR ONE YEAR DUE TO INFRINGEMENT OF ORDINANCE**

Leah Mazor - Certificate # 4599. Possible motion to dismiss based on September 13, 1995 Program Committee finding of violation of street artist ordinance and upon Lottery Rule VII which states that any infringement of the street artist ordinance or the lottery rules by any Lottery Committee member "may result, after a hearing conducted by the Art Commission, in dismissal."

Program Director Lazar reported that Ms. Mazor had finished her certificate's suspension and that, prior to this, several artists had informed him that Ms. Mazor had been diligent in conducting her lotteries.

The Commissioners noted that Ms. Mazor's violation had occurred over five months previously, or four months prior to her election to the Lottery Committee.

Commissioner Simon tabled the issue.

VI **RE-HEARING AND POSSIBLE MOTION TO SUSPEND CERTIFICATE FOR ALLEGED VIOLATION OF STREET ARTIST ORDINANCE**

Hubert Emerson Ortis - Certificate # 4647. Alleged violation: Selling in a location not designated by the Board of Supervisors (June 24, 1995). (Re-hearing ordered by Program Director, by authority of Ord. 291-94, after finding that Mr. Ortis failed to appear at September 13, 1995 hearing and, for good cause, subsequently requested another

hearing.)

Testifying again, Officer Craig Tom stated that on June 24th he saw Mr. Ortis sitting behind his folding table with his merchandise in his case displayed, and that Mr. Ortis was located where space "J-1" (Jefferson Street, south side, at Hyde) used to be. The officer said that both "J-1" and "J-2" were occupied by other artists whom he verified with the lottery sign-up sheet.

Mr. Ortis stated that he was in space "J-1B" which had been assigned to Mario Hernandez who arrived to sell there. At Mr. Hernandez's insistence, Mr. Ortis moved his table to the side of the space when a lady customer approached and wanted to buy an item from Mr. Ortis. He was in the process of selling it to her when he heard Mr. Hernandez call to him; he looked up and saw Officer Tom. Mr. Ortis added that, rather than automatically move out of Mr. Hernandez's space, he should have let Mr. Hernandez know that he needed twenty to twenty-five minutes to pack up.

Officer Tom pinpointed on a map the location he allegedly found Mr. Ortis occupying. Mr. Ortis pinpointed on the same map a different location which, he said, he was occupying and which was either "J-1B" or "J-2." Program Director Lazar clarified that "J-1B" was not in existence at the time of the incident; it was marked on the sidewalk after the Port Commission's resolution of June 27th.

Street artist Mario Hernandez testified that Mr. Ortis had been selling in his (Hernandez's) space and that he had told him to move when he arrived, so Mr. Ortis moved his table and was attempting to leave when a woman customer came up to him. Mr. Hernandez, in response to a question by the Program Director, stated his space was "J-1."

Officer Tom stated that he was not sure whether "J-1" was occupied by Mr. Hernandez; however, both "J-1" and "J-2" were occupied by artists and Mr. Ortiz had placed his table roughly between the two spaces.

Mr. Ortis stated that there had been another artist, one who sells belts, nearby in an illegal location who managed to roll his display away as soon as the officer arrived.

In response to questions from the Commissioners, Officer Tom stated that he found Mr. Ortis sitting down and he was working on his craft, and he stood up quickly

when the officer walked up and tried to gather up his items.

Mr. Ortis stated that he who at one time had been "one of the worst violators of the whole system" knew, like everyone else, that in the middle of summer on a Saturday the Police would be showing up, and for this reason there was "no way" that he would have put himself in an illegal location.

The officer further stated that Mr. Ortis told him that he had had surgery and the sun was so intense that that was why he was sitting in the shade. Mr. Ortis, he said, was wearing a straw panama hat.

Mr. Ortis asked if anyone present had seen him wearing such a hat. Street artist Jesse Rodriguez said that he had.

Commissioner Rogers moved that Hubert Emerson Ortis be found in violation of the street artist ordinance for having sold in a location not designated by the Board of Supervisors, and that Mr. Ortis's certificate be suspended for a period of three weeks; the motion was seconded by Commissioner Simon and unanimously approved.

VII HEARING ON STREET ARTIST-PROPOSED AMENDMENTS TO LOTTERY RULES

A. Eliminate election of Lottery Committee members and replace election with selection of members by lot (amending Lottery Rule V, "ELECTION OF LOTTERY COMMITTEE").

Street artist Robert Clark stated that he has always been opposed to an elected Lottery Committee for the very reason that it engenders the problems that the Program Committee was dealing with now. When members are elected to the Lottery Committee, they start to think that they represent politically the point of view of certain artists, whereas the Lottery Committee's job is to run the lottery. In addition to having to deal with the problems created by Lottery Committee members, the Program has to spend time and money on Lottery Committee elections (composing and printing of ballots, verification of candidates, etc.). If a person wants to be on the Lottery Committee, the person shouldn't have to be popular; there are many people

who are not popular and won't get elected but will not violate the rules and will run the lotteries correctly. In addition, the concept of choosing members by lot would be simpler: artists wishing to fill vacancies on the Committee would give their names to the Program Director, and the names would be drawn by lot to fill the required number of positions; those not chosen would be alternate members. If not enough people volunteer to fill the openings, the dates of the lotteries could be divided among the existing volunteers.

Street artist John Shaw supported the proposal for the following reasons: (1) There has been much in-fighting among Lottery Committee members; (2) no pre-requisites for candidates have ever been established; (3) there was no reason why one person rather than another should be on the Committee; and (4) membership chosen by lot would be the farest procedure.

Street artist Therese Koller stated that the proposal could not be considered until the Commissioners reformed the whole system, with one example being that the Commission continues to license many people to sell the same item, whereas "the real artists" don't get space. If the Lottery Committee was allowed to be composed by lot, the same people "who shouldn't hold licenses" would get the spaces.

Street artist Kathy Hallinan denied that there was in-fighting and competition among the Lottery Committee members and said there was "a lot of stress" and time involved in running the lotteries. She invited the Commissioners to come to a lottery. The Commissioners responded that they had already planned to attend the lottery on Thursday of the following week.

Street artist Eunice Rodriguez recommended that the Lottery Committee be eliminated completely, without affecting the helpers rule, and the person who should supervise the running of the lottery on a given morning should be drawn by lot at 8:30 that morning. "That gives no person," she said, "any power over the lottery."

Street artist Maria Hillius stated that the present system of people choosing members to represent them should continue, and that most people were "comfortable with the situation."

Street artist Virginia Burris asked to see an end to elected Lottery Committees because many people elect people to whom they owe favors.

Commissioner Simon said Commissioner Rogers and she would visit the lottery and also look at other aspects of the Program. She asked that the item regarding selection of Lottery members by lot be put on next month's agenda with a possible motion to adopt. Commissioner Rogers said he would like to hear as much testimony as possible on the topic.

B. **Adopt an amendment to provide that any street artist who fails to produce a valid certificate at the sign-in for spaces shall be prohibited from obtaining a space** (amending Lottery Rule VIII, "LOTTERY PROCEDURE").

Street artist Robert Clark stated that it had been the Commission's intention to adopt such a rule when it adopted the rule requiring the Lottery to check for certificates at the sign-in, but one-time situations whereby an artist may not have his certificate with him have been allowed. Because there are artists who deliberately refuse to show their certificates, the proposed rule would disallow such persons from obtaining spaces.

Street artist Therese Koller stated that this would not be necessary if the Art Commission published at the end of a quarter the names of those artists who did not renew. She criticized this and the previous item being calendared on the Program Committee agenda as, she said, they should have gone before the Liaison Committee.

Commissioner Simon requested that this item, as well as the remainder of the agenda, be continued to next month's meeting.

Street artist Jesse Rodriguez asked that an issue of abating performers' noise be placed on next month's agenda. Commissioner Simon said that it would.

The meeting adjourned at 5:30 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar

Director
Street Artists Program

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, November 8, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE

Daniel Hung - Certificate # 4566. Alleged violation: Disorderly, improper or hazardous conduct (participating in a verbal and physical fight on July 5, 1995).

II HEARING AND POSSIBLE MOTION TO APPROVE REQUEST OF REVOKEE FOR ISSUANCE OF NEW CERTIFICATE

Stephen White - Certificate # 4136 revoked by Art Commission on May 19, 1993. Mr. White's request (application) for new certificate was received on March 13, 1995. According to Commission policy adopted June 7, 1993: "...In its consideration of" a revokee's "request for a new certificate, the Program Committee shall calendar a hearing for the request, and the applicant shall be required to submit evidence in the form of witness testimony or documentation that the applicant is now able and willing to comply with the street artist ordinance. The Program Committee shall submit its recommendation of approval or disapproval of the request to the full Art Commission who, by resolution, shall approve or disapprove the recommendation. ..."

III HEARING AND POSSIBLE MOTION TO ADOPT STREET ARTIST-PROPOSED AMENDMENTS TO LOTTERY RULES (continued from 10/11/95)

A. Eliminate election of Lottery Committee members and replace election with selection of members by lot (amending Lottery Rule V, "ELECTION OF LOTTERY COMMITTEE").

B. Amendment providing for prohibition from obtaining a selling space any street artist who fails to produce a valid certificate at the sign-in for spaces (amending Rule VIII, "LOTTERY PROCEDURE").

Continued.....

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C. Eliminate provision for Art Commission dismissal of any Lottery Committee member who infringes the Lottery rules or street artist ordinance, and replace with provision for Program Director to immediately dismiss any such member based upon complaint and to authorize Program Director to act as hearing officer on requests for reinstatement to the Committee (amending Rule VII, "INFRINGEMENTS OF GUIDELINES").

D. Amendment providing for suspension of certificate of any Lottery Committee member who is found to have violated any of the procedures for conducting the lottery or the sign-in for spaces (amending Rule VII, "INFRINGEMENTS OF GUIDELINES").

IV HEARING AND POSSIBLE MOTION TO ADOPT AMENDMENT TO LOTTERY RULE VIII, "LOTTERY PROCEDURE," TO PROVIDE FOR TWO (2) LOTTERY COMMITTEE MEMBERS PER DAY FOR CONDUCTING THE LOTTERIES, ONE MEMBER NDUCT THE WHARF LOTTERY AND ONE MEMBER TO CONDUCT THE DOWNTOWN LOTTERY, DURING THE PERIOD OF NOVEMBER 15 - JANUARY 15 (amendment recommended by vote of Lottery Committee at 9/7/95 meeting)

V REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

VI HEARING ON PROCEDURES FOR ABATING NOISE GENERATED BY PERFORMERS

VII PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES
At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.

VIII ADJOURNMENT

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and Individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline at** (415)554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, November 29, 1995
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

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III HEARING AND POSSIBLE MOTION TO ADOPT STREET ARTIST-PROPOSED AMENDMENTS TO LOTTERY RULES (continued from 10/11/95)

A. Eliminate election of Lottery Committee members and replace election with selection of members by lot (amending Lottery Rule V, "ELECTION OF LOTTERY COMMITTEE").

B. Amendment providing for prohibition from obtaining a selling space any street artist who fails to produce a valid certificate at the sign-in for spaces (amending Rule VIII, "LOTTERY PROCEDURE").

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C. **Eliminate provision for Art Commission dismissal of any Lottery Committee member who infringes the Lottery rules or street artist ordinance, and replace with provision for Program Director to immediately dismiss any such member based upon complaint and to authorize Program Director to act as hearing officer on requests for reinstatement to the Committee** (amending Rule VII, "INFRINGEMENTS OF GUIDELINES").

D. **Amendment providing for suspension of certificate of any Lottery Committee member who is found to have violated any of the procedures for conducting the lottery or the sign-in for spaces** (amending Rule VII, "INFRINGEMENTS OF GUIDELINES").

IV **HEARING AND POSSIBLE MOTION TO ADOPT AMENDMENT TO LOTTERY RULE VIII, "LOTTERY PROCEDURE," TO PROVIDE FOR TWO (2) LOTTERY COMMITTEE MEMBERS PER DAY FOR CONDUCTING THE LOTTERIES, ONE MEMBER TO CONDUCT THE WHARF LOTTERY AND ONE MEMBER TO CONDUCT THE DOWNTOWN LOTTERY, DURING THE PERIOD OF NOVEMBER 15 - JANUARY 15** (amendment recommended by vote of Lottery Committee at 9/7/95 meeting)

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VI **HEARING ON PROCEDURES FOR ABATING NOISE GENERATED BY PERFORMERS**

VII **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES**
At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.

VIII **ADJOURNMENT**

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and Individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

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Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

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American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

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STREET ARTISTS PROGRAM COMMITTEE

November 29, 1995
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Terri Simon

Commissioner absent: Emily Keeler

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

The meeting was chaired by Commissioner Simon who convened the meeting at 3:05 p.m.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE

Daniel Hung - Certificate # 4566. Alleged violation: Disorderly, improper or hazardous conduct (participating in a verbal and physical fight on June 11, 1995).

Program Director Lazar reported that Mr. Hung's certificate expired prior to this hearing. The Commissioners proceeded with the hearing to determine whether Mr. Hung had committed the violation for which he was charged and, if so determined, to make such finding a part of his record for future consideration should he request to be re-certified.

Mr. Lazar explained that his office had received a written complaint about Mr. Hung on July 5, 1995, nearly a month after the alleged incident for which Mr. Hung was charged in the complaint. According to the complaint, Mr. Hung had "participated in a verbal and then physical fight that took place" approximately in the street artist spaces "B-30's area on Beach Street," and "the Police were called out."

Upon commencing the investigation, Mr. Lazar ascertained from the Police Department that no such incident had been recorded in any Police Incident Report. He wrote to the author of the complaint for details of the incident. He also wrote to another witness whose name was mentioned in the complaint. The author of the complaint never responded and even refused to discuss the matter when the Program Director spoke to this person at their display on Jefferson Street. The other witness responded on Sep-

CITY AND COUNTY OF SAN FRANCISCO

tember 21st in a telephone conversation with the Program Director. Meanwhile, Mr. Hung responded in writing to the Program Director that he had indeed fought a street performer named "Chuck" (whom the Program Director later ascertained as Chuck Williams) over an alleged incident of Chuck's motioning some tourists to throw their garbage into the bushes behind him and that Chuck started the fight when he "slammed" Mr. Hung "against the hood of a street artist's car and proceeded to punch" him "from behind."

As there was not sufficient enough time to allow Mr. Hung to prepare for a hearing in October, the Program Director notified Mr. Hung and the witnesses to appear at the Program Committee meeting of November 12th; this, however, was cancelled due to lack of quorum, and the hearing was re-scheduled for November 29th (with Mr. Hung and the witnesses re-notified).

It was ascertained by the Commissioners that Mr. Hung was not present. The Program Director stated that he did not see either of the two witnesses present.

The Program Director reported also that, in the course of his investigation, he had been referred to a third witness, a street artist who had allegedly broken up the fight; but the Director learned that this person had been in his car and had not seen who started the fight and did not wish to testify.

The Program Director, through the Chair, asked if there was anyone present at the hearing who had witnessed the incident.

Street Artist Robert Clark stated that he observed Mr. Hung and Mr. Williams fighting but he did not see who started it. He further stated that he himself had been attacked several times by Mr. Williams, that Mr. Williams - not Daniel Hung - was "the problem," that Mr. Williams has been on the street for years, often drunk, and has made anti-Asian and anti-street artist remarks and "is a dangerous person."

Commissioner Simon stated that she saw no evidence. Program Director Lazar stated that, in a similar case, the Art Commission on August 1, 1988, dismissed a charge against David Samuel of alleged assault because it was found that there was insufficient evidence to support the charge as there was only one witness who testified to see-

ing the fight, and the person who wrote the complaint did not come forward to testify. As in this previous case, the present hearing thus far had not yielded a preponderance of evidence to show that Mr. Hung had been the aggressor.

Street Artist Edward Steneck stated that three years ago he was selling in space "B-27" or "28" and he observed Mr. Williams, who had been drinking, throw a bottle behind him; Mr. Steneck told him that he didn't think he should contribute to the refuse, that he and the street artists should keep their area clean. Two minutes later, he said, he, Mr. Steneck, "was forced to pick up a chair that I was sitting on ... hold it over my head, because I felt absolutely physically threatened by this man ... I told him if he moved toward me anymore, I'd have to defend myself ... He really threatened me, and I was really afraid." Mr. Steneck said that Mr. Williams was a "troublemaker," and that many artists have had problems with him.

In response to a question by Commissioner Simon, Program Director Lazar stated that Mr. Williams was not a licensed street artist but a performer whom he himself has observed playing his guitar and illegally selling music tapes. Last summer (August 10) he asked Mr. Williams to not sell the tapes because to do so was against the Planning Code and both the street artist and peddler ordinances, whereupon Mr. Williams went into a verbal tirade against him and, for the next hour, against the street artists, coming close to their displays and harrassing them.

The Commissioners asked that the Program Director notify the Police to monitor Mr. Williams' aggressive behavior.

Commissioner Rogers moved that the charge against Daniel Hung of disorderly, improper or hazardous conduct be dismissed due to a lack of preponderance of evidence; the motion was seconded by Commissioner Simon and unanimously approved.

II HEARING AND POSSIBLE MOTION TO APPROVE REQUEST OF REVOKEE FOR ISSUANCE OF CERTIFICATE

Stephen White - Certificate # 4136 was revoked by Art Commission on May 19, 1993. Mr. White's application-request for a new certificate was received on March 13, 1995.

The Program Director stated that, according to the Art Commission's policy, Mr. White was required to submit to

the Program Committee evidence in the form of witness testimony or documentation that he was now able and willing to comply with the street artist ordinance. Should the Committee and the Commission approve his request, he would still have to receive verification by the Advisory Committee of Street Artists and Craftsmen Examiners that the work he intends to sell is of his own creation, in order to obtain a certificate. He had already submitted his wares, but the Advisory Committee had not seen enough evidence to warrant such verification and had asked that Mr. White be rescheduled for another examination.

Mr. White told the Commissioners that he makes his hats and jewelry, that he brought his sewing machine with him, and that he teaches young adults how to make these items also. He is building a children's learning center and community art school. He further stated that "I will comply." He said he was "misjudged" by the Advisory Committee.

The Commissioners allowed the Program Director to ask Mr. White questions to which his responses were as follows:

1) Do you intend to sell only your own work? RESPONSE: "Yes. This is my own work."

2) Will the hats and beadcraft jewelry that you make with your own hands be what you alone will sell? RESPONSE: "Yes, I will." No one else will? RESPONSE: "No."

3) Do you intend to use any animals to display your items on? RESPONSE: "No."

4) In obtaining a selling space, would you be willing to abide by the rules of the lottery? RESPONSE: "Yes, I will." Participate in the lottery? RESPONSE: "Yes."

5) Would you be willing to abide by all of the regulations of the street artist ordinance, not have a salesperson, and sell only what the Advisory Committee has approved you to sell? RESPONSE: "Yes. That is correct."

In response to the Commissioners, the Program Director stated that his recommendation was to approve Mr. White's request subject to verification by the Advisory Committee that the items he wishes to sell are of his own creation.

Commissioner Rogers moved that the request by Stephen White

for issuance of a new certificate be approved subject to approval of his wares by the Advisory Committee of Street Artists and Craftsmen Examiners; the motion was seconded by Commissioner Simon and unanimously approved.

III **HEARING AND POSSIBLE MOTION TO ADOPT STREET ARTIST PROPOSED AMENDMENTS TO LOTTERY RULES** (continued from 10/11/95)

A. **Eliminate election of Lottery Committee members and replace election with selection of members by lot** (amending Lottery Rule V, "ELECTION OF LOTTERY COMMITTEE").

The Program Director commended Commissioner Rogers for attending both a Saturday and a Thursday lottery for street artist spaces, and commended Commissioner Simon for attending a Thursday lottery, both of whom had been requested to do so by street artists at previous meetings, in order to see first-hand how the lotteries operated.

The Program Director went on to say that in two days there would be only two of nine members serving their terms on the Lottery Committee and able to run the lotteries: one member had resigned, one had let their certificate expire, one had been dismissed by the Art Commission, and the terms of four were expiring on November 30th and the Lottery Committee had failed to bring out the ballots for an election last weekend. The Program Director was presently seeking volunteers to run the lotteries on a day-by-day basis.

According to the proposal from Street Artists Robert and William Clark, all current lottery rules and procedures would remain intact, except that members of the Lottery Committee would not be voted on; candidates would call the Program and ask that their names be placed on slips of paper to be drawn by the staff in front of the artists in the same week as a lottery's election would be held (which would be every three months as it is now). Once the names were drawn to fill the necessary number of positions, all the other names would be drawn and kept on a list for filling of possible vacancies until the next election.

Street Artist John Shaw stated that he had heard that current members of the Lottery Committee had refused to put their names on the ballot to run again, that this seemed like a protest, but that the proposal was

worthy of implementing.

Street Artist William Clark stated that it was a power struggle offered by some of the members, that they thought their lack of presence at the Program Committee meeting would influence the Commissioners. He proposed that the new procedure, if adopted, be implemented for a trial period of one year subject to review.

Street Artist Linda Freed stated that she had talked to some of the Lottery Committee members, and it was apparent to her that they could not seem to separate their role as members of the Lottery Committee from their perceived political role. She also stated that they said that their intention was to cause chaos in the system.

Street Artist Michael Granatt stated that, for the Lottery Committee, the artists elect people not out of popularity; they elect people whom they know can run an efficient lottery. He proposed that either volunteers be accepted to run the lottery on the very day they show up to sell or let the artists on a daily basis draw names by lot to run the day's lottery, rather than have a Committee chosen by lot every three months.

Street Artist Eunice Rodriguez stated that what has caused the current problems with the Lottery Committee is that certain members refused to check licenses and thereby did not do their job. She said there was no difficulty in having to check licenses, as she has done this herself as a Lottery member or a helper.

Street Artist Edward Steneck supported the Clark proposal as well as the idea of trying it for a year.

Former-Street Artist John Bass stated that if the lottery system was falling apart because of the apathy, laziness, stubbornness of the Lottery Committee, it would be worthwhile to implement the proposal, but the Program should be aware that the result could be the same as before: some Lottery members selfishly resigning after Christmas, and some members showing up drunk to run their lotteries.

Street Artist Robert Clark stated that if the Commissioners approve the proposal, it would be best to start it right away, rather than waiting until next February

(which would be the next election time) in order to prevent any attempt of chaos.

Commissioner Rogers moved that Lottery Rule V be amended to provide for elimination of election of Lottery Committee members and for selection of members by lot as early as possible and for a trial period of one year; the motion was seconded by Commissioner Simon and unanimously approved.

Commissioner Rogers encouraged Program Director Lazar to schedule a selection of members by lot as soon as possible in order to facilitate the Christmas season lotteries.

B. **Amendment providing for prohibition from obtaining a selling space any street artist who fails to produce a valid certificate at the sign-in for spaces** (amending Rule VIII, "LOTTERY PROCEDURE").

Street Artist William Clark stated that one of the reasons Robert Clark and he were proposing this was to have a discussion on this issue because it had been maintained by former Lottery Committee member Theresa Koller and other artists that it was "stupid" to allow persons into the lottery who did not have their licenses with them; the critics were now given the opportunity to express their point of view. It is true, he said, that there is a problem with some artists who refuse to show their licenses, thereby causing extra work for the staff to verify their validity. To remedy this problem, if artists were aware that they would not be permitted into the lottery without their license, any artist who has lost their license or has not yet received their renewed license by mail could inform the office which, in turn, could inform the next day's Lottery member to admit the person into the lottery.

Commissioner Rogers questioned whether some artists felt insulted by having to show their licenses. Mr. Clark responded that some artists feel that to do so would be like living in a society of "Big Brother"; yet the law requires that the artists' have their licenses when they sell. Commissioner Rogers stated that it did not seem to him that having to show the license was an onerous duty.

Street Artist Eunice Rodriguez stated that the proposed

amendment was a very good idea in keeping with the principle of having to present a ticket at the laundry to receive your washed items: an artist should be required to show their license in order to receive their space, especially since the Program issues each artist two licenses (one for the display and one for the artist to carry).

Street Artist Michael Granatt supported the amendment by stating that any organization or any permit-issuing branch of municipal government requires its permit to be shown; with the issuance of a permit are certain requirements that go with it - for example, it is illegal to drive a car without a license.

Commissioner Rogers expressed reluctance in prohibiting a street artist who doesn't have their license with them at the lottery from being able to sell

Street Artist John Shaw opposed the proposal as being draconian, that there were often situations in which artists, as himself, could not find their licenses to bring to the lottery, and that the present system of Lottery members calling in such names to the office for verification was working well.

Street Artist Linda Freed opposed the amendment by stating that she did not feel she should lose the opportunity of selling because she may have brought the wrong purse or the wrong jacket to the lottery.

Street Artist Edward Steneck proposed that if an artist who fails to show their license at a weekend lottery receives a space, the artist should be prohibited from obtaining a space on the following weekend.

Commissioner Rogers stated that while his Committee was considering enacting a rule that would correct a few artists who were protesting, such a measure could make all the other artists suffer.

Street Artist William Clark stated that the main reason for the passage of the rule requiring the Lottery to check the validity of licenses was to reassure all artists competing for spaces that all the people with whom they were competing had paid-up valid licenses.

Commissioner Rogers considered whether a binder at the

lottery table which would list all valid licensees would suffice.

Street Artist Robert Clark stated that, with the exception of three or four individuals who refuse to show their licenses, the artists have been cooperative. He suggested that the present procedure continue of Lottery members calling in the names of persons who fail to show their licenses, but that the Commission become aggressive in disciplining individuals who continue to not show their license, that the Program Director inform such individuals that if they refuse to show their license one more time they would not be permitted into the lottery.

Commissioner Rogers moved that Lottery Rule VIII be amended to provide that if a street artist fails to show, in obtaining a selling space at the lottery, their valid certificate for two (2) times in the duration of a month, the Program shall institute a hearing procedure to consider suspending the artist's certificate; the motion was seconded by Commissioner Simon and unanimously approved.

Commissioner Rogers stated that, as a Commissioner, he wanted to see the artists show their licenses as they sign in for spaces, but that he did not want to restrict anyone from obtaining a space if they forgot their license. He did not see the difficulty in having to show a license; if somone refused to show it, the Commissioner would like the artist to come to a hearing and give their reasons for refusing to show it.

Former Street Artist John Bass stated that it was not unreasonable to expect someone to show a document whose livelihood depends on that document.

C. **Eliminate provision for Art Commission dismissal of any Lottery Committee member who infringes the Lottery rules or street artist ordinance, and replace with provision for Program Director to immediately dismiss any such member based upon complaint and to authorize Program Director to act as hearing officer on requests for reinstatement to the Committee** (amending Rule VII, "INFRINGEMENTS OF GUIDELINES").

Program Director Lazar explained that presently a Lottery Committee member may be dismissed only after a

hearing conducted by the Program Committee which would occur a month or longer after the member had committed the violation, the member continuing to serve and possibly continuing to violate until dismissed. The proposal would allow the Program Director to immediately dismiss a member based on valid complaint and to act as a hearing officer in considering such member's request to be placed back on the Committee.

Street Artist William Clark, who submitted the proposal, stated that in the present system it takes one to two months for a violation committed by a Lottery member to be heard by the Program Committee. The proposal would solve such lottery problem as soon as possible, within a week or two after it occurs. Before the Program Director dismisses the member, however, he would have to investigate the complaint in order to verify whether there is evidence to warrant dismissal. In this manner, lottery mistakes, incompetence, or outright violations could be corrected quickly.

Street Artists Michael Granatt and Eunice Rodriguez expressed their support for the proposal.

Street Artist John Shaw opposed it, stating that if he were a Lottery member charged with having committed a violation he would want to come before the Program Committee rather than the Program Director.

Street Artist Robert Clark stated that the proposal would be a fine-tuning of the system, so that a Lottery member who abuses the rules would not be allowed to continue doing so until a Program Committee hearing is held: he did not want to see any Lottery member stand in front of the group of artists and state their refusal to obey the rules and then get away with it.

Director of Cultural Affairs Richard Newirth stated that he would like to see an appeal process built in so that some of the ability of people to claim bias would be taken off the Program Director, and that the appeal process could involve either the Program Committee or the Director of Cultural Affairs.

Street Artist Eunice Rodriguez supported the proposal and stated that Mr. Lazar has demonstrated fairness in his decision-making and that he would be fair in

these matters as well. Furthermore, if a Lottery member doesn't deliberately break a rule, they do not have to worry about going through this procedure.

Commissioner Simon favored trying out the proposal for six months or a year, as had been done with other measures.

Commissioner Rogers moved that Lottery Rule VII be amended to provide for elimination of Art Commission dismissal of any Lottery Committee member who infringes the Lottery rules or the street artist ordinance, and to provide for Program Director to immediately dismiss any such member based on a valid complaint indicating just cause, and to authorize Program Director to act as hearing officer on requests for reinstatement to the Lottery Committee subject to appeal to Program Committee and for a six-month trial period subject to further review; the motion was seconded by Commissioner Simon and unanimously approved.

D. **Amendment providing for suspension of certificate of any Lottery member who is found to have violated any of the procedures for conducting the lottery or the sign-in for spaces** (amending Lottery Rule VII, "INFRINGEMENTS OF GUIDELINES").

Street Artist Robert Clark stated that the reason he was proposing the amendment was because he felt that when a Lottery member deliberately violates the rules it is worse than many of the other violations in the Program because it weakens the Program, and the member's license should be suspended if not revoked.

Street Artist John Shaw opposed the proposal because there was no problem and the Program was working well.

Street Artist Linda Freed stated that the proposal, calendared on the Program Committee's agenda, was the reason why many artists were reluctant to serve on the Lottery Committee.

Commissioner Simon stated that while Mr. Shaw felt that the lottery was running smoothly, her Committee has received many letters complaining about the lottery.

Street Artist Edward Steneck stated that Lottery members who blatantly refuse to follow the rules as revealed

in the recent hearing with ex-Member Theresa Koller should be dismissed by the Program Director; but to take away a member's license would be too harsh.

Commissioner Simon tabled the item.

IV **HEARING AND POSSIBLE MOTION TO ADOPT AMENDMENT TO LOTTERY RULE VIII, "LOTTERY PROCEDURE," TO PROVIDE FOR TWO (2) LOTTERY COMMITTEE MEMBERS PER DAY FOR CONDUCTING THE LOTTERIES, ONE MEMBER TO CONDUCT THE WHARF LOTTERY AND ONE MEMBER TO CONDUCT THE DOWNTOWN LOTTERY, DURING THE PERIOD OF NOVEMBER 15 - JANUARY 15** (amendment recommended by vote of Lottery Committee at 9/7/95 meeting)

Commissioner Rogers moved that Lottery Rule VIII, "LOTTERY PROCEDURE," be amended to provide for two (2) Lottery Committee members, when able, per day for conducting the lotteries, one member to conduct the Wharf lottery and one member to conduct the Downtown lottery, during the period of November 15th to January 15th; the motion was seconded by Commissioner Simon and unanimously approved.

V **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

Program Director Lazar reported on the following: (1) The three spaces on Stockton Street, west side, at O'Farrell, requested by the Art Commission on behalf of the street artists, were approved by the Board of Supervisors for six months, painted and numbered on the sidewalk, and were being used by the artists; (2) the sixty-six holiday spaces in the Downtown area and Harvey Milk Plaza requested by the Commission on behalf of the artists were approved by the Board, and Harvey Milk Plaza spaces also received approval by Municipal Railway; (3) four of the spaces on Jefferson Street, painted last summer in white paint by the Program Director under supervision of Port Commission personnel and in accordance with the Port's resolution, were obliterated by black paint by someone who also scrawled in their numbers on the adjacent curb in new locations. As soon as the Downtown spaces are painted, the Director will go back to Jefferson Street and re-paint the four spaces in their Port-approved locations. (The spaces are "1," "1-A," "1-B," and "2.")

The Program Director thanked Street Artist Eunice Rodriguez for carrying out the wishes of her husband Jesse Rodriguez, who had recently passed away, in volunteering to help the

Program Director paint the permanent and holiday spaces in the Downtown area and at Harvey Milk Plaza.

Street Artist Eunice Rodriguez expressed her thanks to Robert and William Clark for proposing and doing the groundwork for the recently obtained three spaces on Stockton Street.

VI HEARING ON PROCEDURES FOR ABATING NOISE GENERATED BY PERFORMERS

The issue was brought to the Committee by Street Artist Jesse Rodriguez.

Program Director Lazar discussed his advice to the Port Commission and the Police Department, requested by both agencies, on establishing a performers licensing program to regulate the locations, crowd gathering, and noise levels of performers. The Director had furnished a budget to each agency on running such a program. To be sure, the Program Director in the past had received complaints from store merchants regarding the noise levels and congestion engendered by performers, and such complaints were referred to the Police.

Former Street Artist John Bass stated that Article 29 of the Municipal Code outlines specific steps the Police can take regarding noise prevention, but the problem has been getting the Police to come out and take care of such situations. The Police have told people to call Noise Abatement, and this is useless, too, because the agency's personnel work only between the hours of 8 a.m. to 5 p.m. and when they do come out, they only issue a citation. The only thing that seems to work is to keep pressure on the Police, calling the Police frequently until they come out and correct the problem. Also it is helpful to know the beat officer and to alert the officer of potential offenders. Mr. Bass recommended that street artists carry a copy of Article 29 to show an officer; also, artists could purchase a $35 decible meter from Radio Shack to assist the Police. Mr. Bass contradicted the statements made by some officers that they were reluctant to enforce the law against performers because the ACLU had various lawsuits against the Police; Mr. Bass checked with the ACLU and was told there were no such lawsuits.

Street Artist William Clark stated that there were provisions of the law which prohibit the playing of music in residential

areas where such music would interfere with the merchants in the area; he asked whether the Program Director could check with the City Attorney to see if street artists,would, by the law's definition, be considered "merchants." If that is the case, the Police would have to respond as a priority to any complaint against music or noise levels called in by a street artist "merchant."

Street Artist Eunice Rodriguez stated there was a steel drum player on Geary and Stockton Streets who amplifies his music electronically at an excessive level.

Street Artist Robert Clark stated that persons using amplification are required to obtain a permit from the Police Department, and that the Police have not demonstrated an enforcement of that law. He agreed with Mr. Bass that street artists should call the Police frequently in these matters until the Police make it a priority.

Mr. Bass asked the Commissioners to consider developing a publication designed for street artists, informing them of their legal rights in different types of problems including noise and sidewalk congestion because of performers. Mr. Bass expressed dismay over hearing about the alleged years of harrassment of the artists by the performer Chuck Williams (earlier in the meeting) and that no one ever called the Police to alleviate the problem. Street artists, he said, were going to have to change their attitudes to defend themselves in legal ways.

Commissioner Simon asked the Program Director to look into the possibility of making such a publication.

The meeting adjourned at 5:04 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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NOTICE

There will be no meeting of the Art Commission's Street Artists Program Committee scheduled for the month of January, 1996.

The next meeting of the Street Artists Program Committee is scheduled for Wednesday, **February 14, 1996, 3:00 p.m.**, Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

January 8, 1996

City and County of
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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, February 14, 1996
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO APPROVE ORDINANCE PROVIDING FOR APPLICANTS FOR STREET ARTIST CERTIFICATE TO PAY NON-REFUNDABLE APPLICATION/EXAMINATION FEE AND FOR ALL APPLICANTS APPROVED FOR CERTIFICATION TO PAY A SECOND FEE TO COVER COSTS OF ISSUANCE OF CERTIFICATE AND OTHER EXPENSES IN ADMINISTERING AND ENFORCING STREET ARTIST ORDINANCE**

II **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY APPLICANT FOR WAIVER OF 15-DAY POLICY IN OBTAINING CERTIFICATE**

A. **Louis Balestier** - approved by Advisory Committee of Street Artists and Craftsmen Examiners on 12/14/95 for certification; request received by Program on 1/8/96.

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM; REPORT ON SPECIAL LAW ENFORCEMENT SERVICES DURING HOLIDAY SEASON, 1995 IN THE DOWNTOWN-UNION SQUARE AREA**

IV **HEARING AND POSSIBLE MOTION TO APPROVE 1996-97 BUDGET FOR STREET ARTISTS PROGRAM** (copy of budget available upon request)

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI **ADJOURNMENT**

CITY AND COUNTY OF SAN FRANCISCO

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STREET ARTISTS PROGRAM COMMITTEE

February 14, 1996
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Terri Simon

Commissioner absent: Emily Keeler

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar

The meeting was chaired by Commissioner Simon who convened the meeting at 3:00 p.m.

I HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO APPROVE ORDINANCE PROVIDING FOR APPLICANTS FOR STREET ARTIST CERTIFICATE TO PAY NON-REFUNDABLE APPLICATION/EXAMINATION FEE AND FOR ALL APPLICANTS APPROVED FOR CERTIFICATION TO PAY A SECOND FEE TO COVER COSTS OF ISSUANCE OF CERTIFICATE AND OTHER EXPENSES IN ADMINISTERING AND ENFORCING STREET ARTIST ORDINANCE

Program Director Lazar referred the Commissioners to the Program Committee minutes of May 12, 1993 which records that Deputy City Attorney Burk Delventhal informed the Committee that it would be possible for the Street Artists Program to charge a non-refundable examination fee to cover the costs of examining an applicant's art and that afterward the applicant could pay a fee to cover the rest of the administrative costs of the Program. The Committee had then voted to have the Program Director consult with the City Attorney's office to draft such a fee structure.

Mr. Lazar proposed that the Commission not request a measure establishing an application fee and a secondary fee to equal the license fee, and that, instead, the Commission request a measure establishing an application fee in addition to the full license fee. An applicant would pay a one-time non-refundable application fee to cover the costs of staff's scheduling the applicant for screening, mailing of notification, and the Advisory Committee's compensation for screening. If the applicant appeared for screening and his/her wares were approved, the applicant would then pay the full amount of the license fee (as applicants do now).

The fact that the Program had caught up with its wait-

CITY AND COUNTY OF SAN FRANCISCO

ing list and did not have enough applicants for January to warrant the costs of screening them the past month could be indicative that there might be several months in the upcoming year during which no screenings could be held, and this could result in a slight decrease of fee revenue. If so, this could be offset by revenue from non-refundable application fees.

Another argument could be made that revenue from the application fees could cover the cost of the Advisory Committee's compensation. Each Advisory Committee member earns $80 per meeting the member attends; a typical meeting/screening involving the Committee's five members costs the Program $400 per meeting/screening. Mr. Lazar stated that this amount could be covered by only 16 applicants each paying $25: even if all 16 failed to show up at their screening, the Committee's compensation would be covered by the non-refundable application fees. (In recent years, the Program has notified 40 applicants each month for screening, and statistically only about a fourth - 10 to fifteen show up.)

Still another argument could be made that an anticipated $400+ a month in application fees, amounting to $4,800+, would cover the Program's currently budgeted $4,700 cost for postage, telephone, printing, and film processing - most of which goes to the screening procedure of bringing applicants into the Program.

Director of Cultural Affairs Newirth noted that a proposed application fee could serve still another purpose: people who are serious about paying the fee would be inclined to show up at their screening and follow through on the licensing process; in addition, the Program would be able to achieve a more accurate "reading" on the number of applicants projected to show up at a given screening.

Mr. Lazar stated that he felt that the type of person who would be willing to pay an application fee would probably feel a commitment to stay in the Program and pay license fees for more than one quarter; in this way, a proposed application fee would, in the long run, help to engender a more consistent <u>license</u> fee revenue from each artist.

Mr. Newirth stated that this, too, would counteract some of the criticism the Program had received from some street artists that new applicants tend to come into the Program only to benefit from key selling seasons, add themselves

to the numbers of artists competing in the lotteries for spaces, and then leave the Program after the season.

The Program Director clarified that the proposed application fee would not apply to licensed artists making application to screen new items. However, he proposed that any former certificate-holder who relinquishes his/her license and is re-admitted into the Program on a priority basis more than two times within a year pay the application fee.

Street Artist Michael Granatt stated that former certificate-holders should pay the proposed $25 application fee every time they are re-admitted into the Program on a priority basis with waiver of re-screening because the Art Commission is giving them special treatment and their re-entry involves adminsitrative time. Also, many such persons take advantage of the Commission's leniency by dropping out after prime selling seasons, whereas the other artists pay their license fees through all seasons.

Street Artist John Bass endorsed the proposal and stated that the Police Department requires a non-refundable application fee of $100 from any vendor seeking a peddler's license for a specific space - even if the space is rejected by the Police. Mr. Bass said a non-refundable application fee for the Street Artists Program would help to encourage stability of membership.

Street Artist Bill Clark endorsed the proposal for a $25 application fee for new applicants and also for former certificate-holders seeking priority above the waiting list, regardless of whether the Commission waives their re-screening.

Street Artist Larry Rosenbloom endorsed the proposal and stated that the Street Artists Program "is such a bargain" and that anyone who drops out and wishes to re-enter should pay a $25 application fee.

Commissioner Simon expressed favor for the proposal as applied to any time a former certificate-holder requests priority for re-entry into the Program, as this would simplify the administrative procedure and cost.

Street Artist Bob Clark endorsed the proposal and stated that there was the possibility that, after a period of time, the application fee revenue could result in a lowering of the license fee which in itself would encourage stability

of membership in the Program. Mr. Clark expressed doubt as to whether both an application fee and a full license fee could be levied on a new applicant, but this could be answered by the City Attorney. Mr. Clark also stated that he wished to see the license fee kept as low as possible which would encourage more participation in the Program.

Commissioner Rogers moved that the City Attorney be requested to draft legislation providing for a $25 non-refundable application/examination fee for artists applying for street artist certification and for former certificate-holders requesting priority issuance of certification; the motion was seconded by Commissioner Simon and unanimously approved.

II **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY APPLICANT FOR WAIVER OF 15-DAY POLICY IN OBTAINING CERTIFICATE**

Louis Balestier - wares approved by Advisory Committee of Street Artists and Craftsmen Examiners on December 14, 1995, for certification; request for waiver of policy received by program on January 8, 1996.

The Program Director referred to Mr. Balestier's letter which stated he had not been able to obtain the certificate during the allotted time period because of a shortage of funds and that he would be able to pay for the certificate in thirty days.

Commissioner Rogers moved that the request by applicant Louis Balestier for waiver of the Commission's fifteen-day policy in obtaining a street artist certificate be approved; the motion was seconded by Commissioner Simon and unanimously approved.

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM; REPORT ON SPECIAL LAW ENFORCEMENT SERVICES DURING WINTER HOLIDAY SEASON, 1995 IN THE DOWNTOWN-UNION SQUARE AREA**

Program Director Lazar thanked former street artist John Bass for his voluntary assistance in re-measuring and re-painting the street artist locations which had been obliterated from the Jefferson Street sidewalk. In addition to re-painting spaces "1," "1-A," "1-B," and "2" whose white numbers and brackets had been illegally painted out with black spraypaint, the Program Director and Mr. Bass

found that spaces "3" and "4" had also been painted out and that all these spaces had been crudely painted in white and positioned into the pedestrian passageway, violating the 10-foot passageway regulation. Also, an additional - entirely new - space had been crudely marked. The Program Director and Mr. Bass black-painted out all of these and re-painted in white the correct locations and numbers of "1" through "4."

Street Artist Larry Rosenbloom asked for a flexibility in the rules governing spaces "1" through "4" as these were not adjacent to stores but to the vacant Federal Wharfside building. Street Artist Bill Clark stated that the rules had to be adhered to for these and all the spaces on Jefferson Street, as the Port Commission in the near future would be meeting to discuss the continuation of street artists selling on Port property.

The Program Director referred to his January 29, 1996 report on "Special Law Enforcement Service (S.F.P.D.) in the Downtown-Union Square Area, Winter Holiday Season 1995, Hired by Street Artists Program" and reiterated four major points: (1) In cracking down on unlicensed vendors, the Police cited nearly double the number of violations of the previous year (90 as compared with 46) which may be explained by the fact that the officers made fewer confiscations of merchandise and this would have allowed them more time on the street and mobility to stop more violations; (2) the issuance of $250 and $400 tickets - or the the threat of such issuance - appears to have deterred 74% of the unlicensed vendors (the ones who each committed no more than one violation) but did not deter five primary vendors each of whom committed three to six violations and received citations totalling $400 to $1,600; (3) for such cases next season, the Program Director will recommend that the Police continue issuing increased bail citations and confiscate the merchandise every time the violator is cited; and (4) because this S.L.E.S. for the city is provided by the street artists, the Program Director would like to pursue legal channels to see if the Street Artists Program could be reimbursed out of the fines collected by the City from such assignments.

Street Artist Bob Clark lauded the performance of the officers but expressed dismay over the fact that the five primary violators were not arrested after the second or third offense; Mr. Clark asked that the Police concentrate on these individuals whose defense in a misdemeanor pro-

ceeding, he said, would not hold up in view of the number of citations they receive.

Street Artist Larry Rosenbloom stated that a letter should be sent from the Art Commission to the merchants stating the number of citations given to unlicensed vendors versus the number given to street artists, so that the merchants understand that it is the artists who are paying for enforcement of people outside of their Program and not of the artists themselves.

The Commissioners expressed support of the Program Director's pursuit of reimbursement for the S.L.E.S. costs out of the collected fines.

Street Artist Bill Clark said it should be pointed out to the City that even if the Street Artists Program were to receive such reimbursals, the City would still make money off the fines resulting from enforcement paid for by the artists.

IV HEARING AND POSSIBLE MOTION TO APPROVE 1996-97 BUDGET FOR STREET ARTISTS PROGRAM

The Commissioners reviewed the budget submitted by the Program Director.

Street Artist Bill Clark stated that because Franceschi's Restaurant has terminated its voluntary storage of lottery supplies for the street artists, he and other artists were investigating the possibility of renting space for the supplies in the Wharf area which could cost the Program $50 a month. Mr. Clark asked that the Commission send a thank you letter to Franceschi's for having stored the supplies voluntarily for many years. The Commissioners supported this request.

Street Artist Larry Rosenbloom asked that the Committee postpone its consideration of the budget to allow the artists to present a proposal to have Jefferson Street closed to vehicular traffic on weekends during summer and possibly using some of the Street Artists Program money to advertise a "weekend crafts fair," and this might also trim the costs of the Program-hired Police enforcement on Jefferson Street.

Director of Cultural Affairs Newirth said it was not advisable to postpone the Committee's consideration of the

Program budget, as the budget for the entire agency was required to be submitted to the Mayor on the 22nd of the month.

Mr. Rosenbloom asked the Program Director what the amount was of the accumulated surplus of funds (Program savings from previous years) in the Street Artists Program fund. Mr. Lazar stated that he had calculated the amount but did not want to state it at this time without its verification by the Controller. In addition, he had written to the Controller for a statement on the interest the surplus had accrued. Mr. Newirth stated that Mr. Lazar and he were working with the Controller's personnel to reconcile these figures.

Street Artists Bill and Bob Clark asked that the Charter be consulted as to provisions for an agency charged with control over a special fund to request permission to invest amounts from the fund.

Commissioner Rogers moved that the 1996-97 budget for the Street Artists Program, as submitted, be approved; the motion was seconded by Commissioner Simon and unanimously approved.

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES**

Street Artist Mike Granatt requested that staff pursue its investigation into obtaining selling spaces at Yerba Buena; street artists should not be excluded from selling near the Center for the Arts.

Street Artist Bob Clark stated the proposal Larry Rosenbloom had mentioned (in Item IV above) was the first he, Mr. Clark, had heard regarding closure of Jefferson Street, and he asked that the Art Commission, if not already doing so, be involved in such negotiations. He also stated that funds of the Street Artists Program could not be used for any advertising but only for the management and enforcement of the Program; therefore any advertising for a "weekend craft fair" would have to paid for by the participants themselves.

Street Artist Larry Rosenbloom questioned whether the costs of advertising could not be borne by the Street Artists Program.

Street Artist Bill Clark stated that since it has been proven that Beach Street was successfully closed to vehicular traffic for 4th of July celebrations, he proposed that consideration be given to closing Beach Street for a day next year to celebrate the Street Artists Program's 25th anniversary. Street Artist Margaret Granatt supported this proposal and cited Berkeley's success in closing Telegraph Avenue on Sundays and allowing its street artists to sell there. Mr. Clark stated that the closure of Beach Street between Hyde and Larkin for the benefit of the stores and the artists would allow about 200 artists to sell.

Director of Cultural Affairs Newirth supported the idea of a celebration marking the Program's twenty-five years.

The Commissioners stated that they would welcome further discussion at subsequent meetings on the proposals for anniversary and weekend street closures.

The meeting adjourned at 4:38 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, March 13, 1996
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

A. **Barry Prager - Certificate # 2703.** Alleged violation: Conducting business in a disorderly, improper or hazardous manner (November 4, 1995 allegedly (1) assaulting street artist Silina Kreisel, (2) verbally abusing Mrs. Kreisel in front of her customers, and (3) allowing customers to obstruct Mrs. Kreisel's business; and November 12, 1995 allegedly (4) threatening street artist Janet Christian).

B. **Nellie Seiden - Certificate # 2949.** Alleged violation: Selling in a location not designated by Board of Supervisors (December 24, 1995 allegedly selling at 121 Stockton Street; citation issued by Police).

C. **Mirtha Mackthon Juscamayta - Certificate # 4495.** Alleged violations: (1) Selling items (manufactured scarves, knit gloves, knit caps, and ties) not certified by Art Commission; and (2) selling in a location not designated by Board of Supervisors (December 15, 1995 allegedly at 388 Market Street; citation issued by Police).

D. **Farid Samara - Certificate # 4778.** Alleged violation: Selling in a location not designated by Board of Supervisors (December 23, 1995 allegedly at 51 Stockton Street; citation issued by Police).

E. **Michel Verton - Certificate # 2509.** Alleged violations: (1) Selling items ("wurli toys") not certified by Art Commission; and (2) selling in a location not designated by the Board of Supervisors (December 10, 1995 allegedly at Stockton Street, southwest corner, at O'Farrell Street).

II REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS

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PROGRAM

III **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IV **ADJOURNMENT**

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Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

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STREET ARTISTS PROGRAM COMMITTEE

March 13, 1996
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

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Commissioners present: Emery Rogers, Terri Simon

Commissioner absent: Stanlee Gatti

Staff present: Director of Street Artists Program Howard Lazar

The meeting was chaired by Commissioner Simon who convened the meeting at 3:08 p.m.

Commissioner Rogers stated that he had observed the street artists' lottery for spaces on the previous weekend and was impressed with the efficiency of the new lottery committee which had been chosen by lot. The Commissioner complimented the lottery members for a well-run lottery.

I HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

A. Barry Prager - Certificate # 2703. Alleged violation: Conducting business in a disorderly, improper or hazardous manner (November 4, 1995 allegedly (1) assaulting street artist Silina Kreisel, (2) verbally abusing Mrs. Kreisel in front of her customers, and (3) allowing customers to obstruct Mrs. Kreisel's business; and November 12, 1995 allegedly (4) threatening street artist Janet Christian).

(For detailed summary of testimony/evidence/findings of this hearing, please see attached **APPENDIX** to these minutes.)

After receiving testimony from Street Artists Silina Kreisel, Janet Christian, Robert Kreisel, Barry Prager, Eunice Rodriguez, and Virginia Burris, the Program Committee made the following motion:

Commissioner Rogers moved that Barry Prager be found in violation for having conducted business in an improper manner which involved physical contact and verbal abuse, that Mr. Prager's certificate be suspended for a period of three weeks, and that Mr. Prager be warned that any future charge against him of improper conduct of business may result in a hearing to consider revoking his certificate; the motion was seconded by Commissioner Simon and unanimously approved.

CITY AND COUNTY OF SAN FRANCISCO

B. Nellie Seiden - Certificate # 2949. Alleged violation: Selling in a location not designated by Board of Supervisors (December 24, 1995 allegedly selling at 121 Stockton Street; citation issued by Police).

The Committee noted that prior to the incident, the Program Director had photographed Nellie Seiden on February 25, 1994, selling in a location not designated by the Board of Supervisors and had sent her a written warning.

Officer Craig Tom testified to the citation he had issued Mrs. Seiden on December 24, 1995 and stated that he found her display open for business and that she was sitting by it, working on a jewelry item. She and the display were curbside, opposite the entrance to Macy's - not a legal space. The nearest street artist was ten to twelve feet away. Macy's had just closed its doors, and traffic was very heavy. She told the officer that she was waiting for one of the street artist locations to become vacant, but the officer observed that none of the other artists was attempting to close up shop. If Mrs. Seiden's display were covered, he said, he would have allowed her to stay.

Street Artist Nellie Seiden stated that she knew the artist who was selling toy lamas was about to leave because years of selling on the street have enabled her to be aware of what is happening. She said she did not remember working on any item while waiting. She had started to sell on Grant Street, then had moved to Geary. It was a terrible day. She was attempting to move to the lama artist's space to sell there until her husband arrived.

Street Artist Kathy Hallinan stated that the incident occurred on Christmas eve which is "the scariest day" for her because the stores close early and an artist is selling by herself. Ms. Hallinan said she was there that day, and that Ms. Seiden has never sold illegally ever since the time she received her warning.

Street Artist Larry Rosenbloom stated the only place for an artist to wait where there are other artists on Christmas eve is by Macy's, but that Mrs. Seiden should have covered her display while waiting.

Mr. Reed Seiden, Nellie's husband, stated that he was late in picking his wife up, that he had misunderstood her to mean that he should arrive at 6:15 whereas she was expecting him at 5:30.

In response to questions from the Committee, Officer Tom stated that he characterized Mrs. Seiden as being set up to catch a sale, and that it is a serious offense to be selling in an illegal location.

Commissioner Rogers moved that Nellie Seiden be found in violation for having sold in a location not designated by the Board of Supervisors, and that Mrs. Seiden's certificate be suspended for a period of one week; the motion was seconded by Commissioner Simon and unanimously approved.

C. **Mirtha Mackthon Juscamayta - Certificate # 4495.** Alleged violations: (1) Selling items (manufactured scarves, knit gloves, knit caps, ties) not certified by Art Commission; and (2) selling in a location not designated by Board of Supervisors (December 15, 1995 allegedly at 388 Market Street; citation issued by Police).

Officer Stewart Ng testified to the citation he issued Ms. Juscamayta on December 15, 1995 and stated that he found her on the north side of Market Street, near Fremont, with two display tables: one contained fabric hairwraps (for which she is certified); the other contained gloves, caps, and neckties. Both tables were three feet apart. She told the officer that both were hers.

Ms. Juscamayta stated that her table was the one with the hairwraps, that her husband had been selling in front of 388 Market Street and had asked him to join him there; his was the other table which contained the gloves, etc. He had to leave for a while, and she watched his table.

Commissioner Rogers moved that the charge against Mirtha Mackthon Juscamayta of selling items not certified by the Art Commission be dismissed, that Ms. Juscamayta be found in violation for having sold in a location not designated by the Board of Supervisors, and that Ms. Juscamayta's certificate be suspended for a period of three weeks; the motion was seconded by Commissioner Simon and unanimously approved.

Commissioner Simon warned Ms. Juscamayta that the next time she is found selling in an illegal space, her certificate

could be suspended for a longer period of time. The Commissioner also warned Street Artist Abraham Pando, Mirtha's husband (who was present) against selling items that were not certified by the Art Commission and against selling in a non-designated location.

D. **Farid Samara - Certificate # 4778.** Alleged violation: Selling in a location not designated by the Board of Supervisors (December 23, 1995 allegedly at 51 Stockton Street; citation issued by Police).

Officer Milan Kangrga, who had issued the citation to Mr. Samara on December 23, 1995 was not present.

Street Artist Robert Siu translated for Mr. Samara: He had originally been assigned to a space adjacent to the Emporium but chose to exercise the Art Commission's approved "buddy system" by sharing table space with another artist, in this case Robert Siu. Mr. Samara arrived at Mr. Siu's space at 6:10 p.m. and was in the process of putting his belts onto Siu's table when the officer cited him and would not let him explain that he would be sharing the space.

Both artists showed the Committee photos that Mr. Siu took of their display after the officer left. Mr. Siu also produced the lottery sheet of the day which listed Mr. Siu's name in "Z-45".

Commissioner Rogers moved that the charge against Farid Samara of selling in a location not designated by the Board of Supervisors be dismissed due to a lack of preponderance of evidence; the motion was seconded by Commissioner Simon and unanimously approved.

E. **Michel Verton - Certificate # 2509.** The Commissioners continued the hearing to the next month, as Mr. Verton had informed the Program Director that his car had broken down and he was unable to access public transportation.

The meeting adjourned at 5:07 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

A P P E N D I X

STREET ARTISTS PROGRAM COMMITTEE MINUTES

March 13, 1996

HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE - BARRY PRAGER: SUMMARY OF TESTIMONY/EVIDENCE/FINDINGS

Barry Prager - Certificate # 2703. Alleged violation: Conducting business in a disorderly, improper or hazardous manner (November 4, 1995 allegedly (1) assaulting street artist Silina Kreisel, (2) verbally abusing Mrs. Kreisel in front of her customers, and (3) allowing customers to obstruct Mrs. Kreisel's business; and November 12, 1995 allegedly (4) threatening street artist Janet Christian).

In reference to the above charge, Program Director Lazar explained that he had initially received a written complaint from Mr. Prager alleging that Silina Kreisel had assaulted him. In the course of investigating the matter, the Program Director found no witness support of the complaint; on the other hand, one witness came forward to support Mrs. Kreisel's counter-complaint that Mr. Prager had assaulted and verbally abused her. Also, it was found that Mr. Prager had received, one year prior to the incident, a written warning from the Program in reference to allegedly conducting business in a disorderly, improper or hazardous manner based on a complaint of his having verbally harrassed and obstructed the business of street artist Virginia Burris. At the time of the current investigation, a complaint was filed with the Street Artists Program office that Mr. Prager on November 12, 1995 had allegedly threatened street artist Jan Christian.

Because of the above two current incidents, the Program was charging Mr. Prager with having conducted business in a disorderly, improper or hazardous manner.

Street Artist Silina Kreisel stated the following regarding her written complaint: (1) On November 4, 1995, Mr. Prager did not control the crowd which had gathered to watch him sketch customers; (2) Mrs. Kreisel placed a chair next to her display to prevent the crowd from bumping into her display; (3) Mrs. Kreisel left her display, returned, and found the back of her chair missing, whereupon she asked several tourists and Mr. Prager if they had seen who had taken it; (4) Mr. Prager issued rude remarks to her and used his

forearm to hit her in the stomach which was witnessed by street artist Jan Christian; (5) afterward, while she was waiting for Police to arrive, Mr. Prager issued racist remarks and profanity to her and told one of her customers that she did not make her work but was a salesperson.

Street Artist Jan Christian stated that she witnessed the entire incident, that Mr. Prager hit Mrs. Kreisel, and that, on November 12th, he approached Ms. Christian and told her: "You came looking for trouble and you're going to get it," whereupon he looked into her car and said to her dog: "Better watch out what you eat, little doggie." With regard to the incident involving Mr. Prager and Mrs. Kreisel, Ms. Christian described how Mr. Prager hit Mrs. Kreisel who "stepped back three or four steps or so," and Ms. Christian stated to Mr. Prager: "I saw that." She added: "I did not see her hit him; I saw him shove her to the back, with the back of his arm." Since that time, Ms. Christian said that Mr. Prager has made "growling noises" at her "when he comes near me or if I come near him to try to intimidate me, staring me down." Ms. Christian said she was "scared of him."

Through questioning, Commissioner Rogers ascertained from Mrs. Kreisel that she had had previous incident three years ago involving Mr. Prager's refusal to control his crowd, but this time she refused to speak to him about the problem and chose to place her chair between their displays to guard against his customers.

Street Artist Robert Kreisel (Silina's husband) stated that a month after the incident Mr. Prager approached him with a proposal that if Mrs. Kreisel dropped her complaint, he would not file a charge of Mr. and Mrs. Kreisel's having traded selling locations; to this, Mr. Kreisel told them that a public apology from Mr. Prager would have to be considered out of respect to Mrs. Kreisel's culture. Mr. Prager he said, told him that he would not consent to this, that Prager stated his family "is from Bosnia, and the way we settle unresolved disputes is with violence."

The Commissioners examined photographs submitted by Mrs. Kreisel which, according to her, showed Mr. Prager's display in relation to hers, as well as the positions of Mr. Prager's customers. Mr. Prager examined the photos.

Street Artist Barry Prager erected his display in front of the Commissioners to demonstrate his version of the incident involving Silina Kreisel. While he was doing so, the Committee received testimony from other artists.

Street Artist Eunice Rodriguez stated that she saw Mr. Prager some time after the incident photographing Mrs. Kreisel sitting in her car and reading a newspaper. Street Artist Virginia Burris testified to the incident she reported a year before in which he allegedly verbally abused and threatened her.

Addressing Ms. Burris's report, Mr. Prager stated that after Ms. Burris had, at a hearing, asked the Commission to insist that cartoonists incorporate their chairs within the four-foot display requirement, he photographed Ms. Burris's chair six feet away from her display, as well as another chair which extended her display area fifteen feet, and a second table on which she worked on her belts. The Commissioners examined photos he submitted of this, which included a photo of Ms. Burris's friend attempting to block Mr. Prager's lens. At the time, he said, he did not feel it was important enough to inform the Art Commission, but the photos "clearly" showed "an assault on" him.

Reading from a prepared statement, Mr. Prager stated that he was a street artist for thirteen years, an illustrator, photographer, and sculptor. He showed the Committee a sample of his sculpture which was recently approved by the Art Commission's Advisory Committee of Street Artists and Craftsmen Examiners. He described his recent jobs and exhibitions in industry. He went on to say that the present hearing was the result of an attempt at character assassination brought on by two women.

Mr. Prager described how he built his desplay to consider not only his personal needs but those of the persons who would be selling next to him, by building the display wings to slant back so that these artists would be easily seen. Mr. Prager stated that on January 28, 1996, he spoke with Robert Kreisel to "put this unpleasantness aside" but was told that Mrs. Kreisel's honor was involved. Mr. Prager accused Mrs. Kreisel of being "selective with this honor" by filing false and misleading claims with the Program, lying to the Police, and slandering the reputations of innocent people. He added that three days after the incident he caught Mr. and Mrs. Kreisel cheating at the artists' lottery for spaces.

Mr. Prager disputed Mrs. Kreisel's claim that he had had a large crowd of people watching him work, leaning on her

display and blocking it. He said that it had been a cold and dreary day, that that daylight savings time had ended days before which, added to the weather, made it "the worst Saturday of the year." By 3 p.m., one fourth of the artists were experiencing no sales and left the street. The two spaces next to him, "Beach 14" and "13", were vacant before 3 p.m. Mr. Prager showed the Commissioners his record book which he said showed that on November 4th he made thirty-six dollars which, he said, did not sound like he had a big crowd. He stated that he sells his drawings for three dollars apiece and therefore had only a total of twelve customers that day.

At approximately 4 p.m. during the incident with Mrs. Kreisel he was drawing a pair of soldiers. After the incident, he drew four people. Therefore between 12 p.m., when he set up his display, and 4 p.m. he drew six people. It takes two-and-a-half minutes for him to make a drawing, so between 12 and 4 p.m. he was drawing a total of fifteen minutes or four minutes an hour. This is, he said, in contrast with Mrs. Kreisel's claim that he was attracting large crowds swarming around her display and affecting her business.

Mr. Prager referred the Commissioners to his witness, Street Artist David Samuel, who was not present because, Mr. Prager said, David Samuel was a friend of Mrs. Kreisel and Ms. Christian. Because he knew that Mr. Samuel would not speak on his behalf, he had asked the Program Director to contact Mr. Samuel to respond to questions furnished by Mr. Prager. Mr. Prager read to the Commissioners Mr. Samuel's responses as recorded in writing by the Program Director.(The Commissioners acknowledged receiving a copy of the statements previously from the Program Director as part of his investigation.)

After reading the responses, Mr. Prager made a point that Mr. Samuel was in the space next to him after 2:30 and would have been witness to any crowds but evidently saw none.

Mr. Prager demonstrated to the Commissioners how he was sitting at his display and how there would be two-and-a-half feet between him and the person he was drawing. As he was drawing a pair of soldiers, he said, he had no opportunity to take Mrs. Kreisel's chair.

At Mr. Prager's request, the Commissioners allowed the Program Director to assist Mr. Prager in his demonstration

by stepping in between him and the"soldiers." In this manner, Mr. Prager said, Mrs. Kreisel actually blocked his view of the soldiers. Before she did so, he said, she came up and accused one of the soldiers of stealing her chair; when he assured her that he hadn't, she stepped between him and Mr. Prager who then asked her three times to move. She was standing on his foot, he said, when with his arm (he demonstrated) he pushed her aside. He added that he did not hit her in the stomach and knock her backwards, as she claimed, but "brushed her hip aside and moved her sideways." After he brushed her aside, he said, she started to hit him, "slapping" him "in the head ... all the while" he "had some customers."

Mr. Prager denied ever having talked to Mrs. Kreisel before the incident and denied calling her names or making racist remarks to her. He said this was supported by David Samuel's statement to the Program Director that he did not hear any name-calling. Mr. Prager denied the claim that he continued to disrupt Mrs. Kreisel's business after the incident, and that this was supported by David Samuel's verbal confirmation that Prager was sitting quietly and drawing.

Mr. Prager stated that Mrs. Kreisel claimed he hit her in the stomach, but on the Police report, he said, she claimed "a sore chest"; Mr. Prager stated that he believed she had had a breast operation and that she was trying to obtain sympathy and that "that must have been a heck of a shock wave travelling all the way up to her chest, maybe like an M-16 bullet."

In reference to Ms. Christian's claim that he threatened her and her dog, Mr. Prager stated it was a discussion that happened to take place on Beach Street, not during street artist business hours, and the rules of the Program Committee do not supercede his "first amendment rights of freedom of speech." Later, that same day, Ms. Christian's boyfriend, a bartender from the Buena Vista, came up to him while he was selling - and this was during business hours - and threatened him by punching his fists together - all of which Ms. Christian, failed to tell the Committee. As for his alleged threatening of her dog, he said that while he was talking to her, her dog choked, "so I said 'Better watch what you eat,' as I love dogs."

In rebuttal, Ms. Christian stated that Street Artists Bill and Bob Clark, who were not present, had witnessed Mr. Pra-

ger's threatening her; that it didn't matter if only two or four customers are present at a funsketch artist's display since it takes only two leaning on another artist's display to disrupt that artist's business; and with respect to Prager's assertion of "shoving" Mrs. Kreisel, "he actually backhanded her" enough for her to "step back three or four steps."

In rebuttal, Mrs. Kreisel stated that Mr. Prager was not drawing any customer when she approached him; that David Samuel "is always walking around" and she did not know where he was set up; and that she did not hit Prager.

In rebuttal, Mr. Prager stated that it was a very slow day with no business, which makes Mrs. Kreisel and Ms. Christian suspect about their testimony of large crowds; it was none of his business as to what happened to Mrs. Kreisel's chair, but when she "hassles me and my customers and she gets right in my face, I have to protect myself too ... She's standing on my foot, she's waving her arms, she's disrupting my business ..."and that David Samuel will not substantiate that "any of that happened, and it didn't."

Commissioner Rogers stated this was an extremely emotional situation which evidently festered for a long time, that witness testimony had been received even though another witness, David Samuel, had been notified but had not appeared, and that he, Commissioner Rogers, would recommend a suspension of certificate. When physical contact was involved, he said, the Commission could go as far as revoking a certificate, but he did not feel that would be appropriate in this case.

Commissioner Simon stated that in the past the Art Commission has stressed the point that it does not tolerate street artists touching, pushing, or engaging in any kind of physical contact with each other, and that such incidents should be dealt with at an early stage. There was no reason, she said, for a street artist to push another street artist - man or woman - away, that there are other ways to handle a situation, and that given the witness testimony against Mr. Prager and a lack of witness testimony to counter the charge, a suspension would be called for as well as a warning of possible revocation for any future charge of improper conduct.

Commissioner Simon further stated that street artists

threatening or being verbally abusive to others would not be tolerated as such behavior leads to the pushing/shoving/punching stages. She suggested that the Program Director issue a warning to the artists against verbal and physical aggressive behavior.

Commissioner Rogers moved that Barry Prager be found in violation for having conducted business in an improper manner which involved physical contact and verbal abuse, that Mr. Prager's certificate be suspended for a period of three weeks, and that Mr. Prager be warned that any future charge against him of improper conduct of business may result in a hearing to consider revoking his certificate; the motion was seconded by Commissioner Simon and unanimously approved.

Commissioner Rogers stated that he expressed his sorrow that it had gotten to the point that some people in front of the Committee were shouting at each other and calling each other liars, and that he hoped that they would try to respect each other's right to be out on the street and to refrain from verbal or physical conflict; otherwise, if they ended up in front of the Committee again, the Commissioners would start pulling licenses.

(END OF HEARING)

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, April 10, 1996
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR TEMPORARY SIX-MONTH RE-DESIGNATION OF THREE (3) SELLING SPACES ON STOCKTON STREET, WEST SIDE, AT O'FARRELL STREET (spaces designated by Board of Supervisors Res. No. 871-95, 10/27/95, for six months)**

II **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR PERMANENT DESIGNATION OF FOUR (4) FORMER TEMPORARY HOLIDAY SPACES ON MARKET STREET, 2ND TO 1ST STREETS, AND THREE (3) FORMER TEMPORARY HOLIDAY SPACES ON SUTTER STREET, SOUTH SIDE, AT MARKET STREET (former temporary spaces designated annually since 1982)**

III **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO Board OF SUPERVISORS FOR TEMORARY SIX-MONTH DESIGNATION OF SIX (6) SELLING SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS (for designation between existing spaces "H-12" and "H-13" with exemption from Sec. 2405(c)(6) and (5), Ord. 41-83 (distance from doorway and standpipe regulations)**

IV **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES**

A. **Michel Verton - Certificate # 2509.** Alleged violations: (1) Selling items ("wurli toys") not certified by Art Commission; and (2) selling in a location not designated by the Board of Supervisors (December 10, 1995 allegedly at Stockton Street, southwest corner, at O'Farrell Street). (rescheduled from 3/13/96)

B. **Silina Kreisel - Certificate # 3145 - and Robert Kreisel - Certificate # 3146.** Alleged violation: Signing-in for and trading spaces (violation of lottery provision adopted by Art Commission 8/6/84: "GIVING AWAY SPACES PROHIBITED: No one may sign in for a space and give it to someone else,

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including family unit members.")

V REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE WITH WAIVER OF RE-SCREENING OF WARES

A. **Daniel Ladron De Guevara - Certificate # 3870** expired December 1, 1995; request for priority received by Program October 6, 1995 (prior to Mr. De Guevara's leaving town).

VI BRIEFING BY PROGRAM DIRECTOR ON THE LAWS, PROCEDURES, AND ACTIVITIES OF THE STREET ARTISTS PROGRAM

VII PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IV ADJOURNMENT

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline at (415)**554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

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(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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STREET ARTISTS PROGRAM COMMITTEE

April 10, 1996
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, Anthony Turney

Commissioners absent: Maria X. Martinez, Janice Mirikitani

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, convened the meeting at 3:12 p.m. and introduced and welcomed Commissioners Freebairn-Smith and Turney to the Committee.

I HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR TEMPORARY SIX-MONTH RE-DESIGNATION OF THREE SELLING SPACES ON STOCKTON STREET, WEST SIDE, AT O'FARRELL STREET (spaces designated by Board of Supervisors Resolution No. 871-95, October 27, 1995, for six months)

Commissioner Rogers noted, by a show of hands, that some 30 street artists were in support of the proposal for re-designation.

Street Artist Bill Clark stated that, as the artist who initially proposed the three spaces, he wanted to see the Art Commission recommend to the Board of Supervisors that the spaces be re-designated, and that he used them a few times during the Christmas season and they proved to be viable spaces.

Ms. Ellen Kovak of Cushman-Wakefield, representing the owners of the 55 Stockton Street building adjacent to the building, expressed opposition to the proposal and presented photos which, she said, showed that the sidewalk area was not being properly maintained, that there were polish stains, that the artists' displays were haphazardly set up and were in disarray. The photos, she said, were taken in the beginning of February.

Program Director Lazar clarified that the incident of sidwalk stain was discussed at the Program Committee's hearing the previous month when it was ascertained, due to a complaint

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from The Limited, that street artist Farid Samarra had spilled leather dye on the sidewalk. The Committee gave him a stern warning against any further leather dying on the sidewalks, and he, in turn, promised to remove the stains.

Ms. Kovak stated that Mr. Samarra has continued to use leather dyes in that area, and that she spoke with him the other day; he said he would clean up the stains, but he has not done so. Ms. Kovak asked the Committee how her organization would be reimbursed for the costs in doing the cleanup. She went on to state that most of the artists' displays were haphazardly put together.

Commissioner Rogers stated that he felt it was the Street Artists Program's responsibility to clean up the stains.

Ms. Kovak stated that her group did not appreciate having the "vendors" in front of the building because it is also a high-congestion area, there is a school in the building with many students entering and exiting, and at certain times of the day there is a "big backup" because the artists are there.

In reference to such alleged congestion, the Program Director stated that next to the three spaces there has been placed a seventeen-foot JC DeCaux kiosk, the radius of which encroaches the sidewalk twice as far as the artists' spaces. The kiosk is closer to the crosswalk and Ms. Kovak's building entrance, and, as such, could be considered the real contributor to the sidewalk's congestion.

Commissioner Rogers noted that the three spaces met all of the fire and public safety regulations passed by Board of Supervisors ordinance.

Street Artist Nancy Pearlman testified that, prior to the designation of the three spaces, there had always been illegal, unlicensed vendors working the sidewalk. She stated also that she did not feel that all of the artists should be punished because one artist did not respect the spaces.

Street Artist Leah Mazor clarified that she and her colleagues were not "vendors" but artists: people who make their own work.

Street Artist Linda Pedersen stated that, as an artist who has been in the Program since 1980, she was aware of some

artists' displays which left room for improvement but that any improvement was subject to the size regulations. She also stated that an artist who spills dye on the sidewalk should be the one to clean it up.

Street Artist Robert Clark stated that he considered the criticism of the artists' displays "almost as a racist attack on the people who work the streets," and that the artists have to build their displays in such a manner as to allow for immediate evacuation in the event of emergency. The displays, he said, did not look as bad as the people who panhandle and relieve themselves in doorways; such persons, he said, are not around when the street artists set up. Mr. Clark added the major problem was enforcement, that the City still had over $200,000 of the artists' fees which it has never reverted to the Program's fund, that he understood that the Program Director was researching the whereabouts of another $100,000 of the artists' fees which the City was holding, and that if there was a problem of enforcement, the merchants and the artists should team up and request the Board of Supervisors to give the Program back its money so that the Program could provide more policing in street artist areas.

Mr. John Bass stated he was a former street artist who had been in the Program for nine years and that he believed that enforcement was the essence of the Program; without adequate regulation, irresponsible persons will incur attacks on the Program by the merchants. Mr. Bass went on to say that he wondered if the managers of The Limited building paid as much attention to the panhandlers, the performers with amplified sound, the Street Sheet peddlers, etc., as they do the street artists. He frequently has seen such activities tolerated by the building's and store's managers, whereas street artists, because they are subject to regulations and have an office where persons may come to complain, are treated as if they are responsible for the entire gamut of behavior that occurs on the sidewalk. The artists, he said, are against such behavior and spend their money on Police to remove illegal vendors. At the corner of Stockton and O'Farrell, he said, he has seen illegal vendors many times and has personally telephoned the Police, whereas the people who run the stores do not seem to want to take this burden on themselves. Generally, street artists are good citizens, he said, who displace the illegals.

Director of Cultural Affairs Newirth commented that the Street Artists Program Committee historically has demon-

strated sensitivity to the business community, that there really is a difference between street artists and vendors, and there was no reason why businesses and street artists could not support one another and work in a way to improve the neighborhood as a whole - for example, a business's getting to know the artists who are outside its building and being able to tell any one of them that he/she is making a mess, and, if the artist does not respond, being able to contact the Program Director.

Commissioner Rogers stated that the Street Artists Program Committee would take it on itself to see that any spillage on sidewalks by a street artist would get cleaned up. The Commissioner asked that the artist who spilled the dye on Stockton Street come before the Committee at its next meeting.

Street Artist Eunice Rodriguez stated that all the leather artists use dye and that perhaps the staff could notify them to not use their dyes on the street.

Street Artist Vivian Lee stated that she sells in the three spaces, likes them, and hoped that they would continue.

Commissioner Freebairn-Smith moved that the Board of Supervisors be requested to re-designate for six months the three selling spaces on Stockton Street, west side, at O'Farrell Street, as previously designated in Board of Supervisors Resolution No. 871-95; the motion was seconded by Commissioner Turney and unanimously approved.

II HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR PERMANENT DESIGNATION OF FOUR FORMER TEMPORARY HOLIDAY SPACES ON MARKET STREET, SOUTH SIDE, 2ND TO 1ST STREETS, AND THREE FORMER TEMPORARY HOLIDAY SPACES ON SUTTER STREET, SOUTH SIDE, AT MARKET STREET (former temporary spaces designated annually since 1982)

The Program Director informed the Commissioners that two and a half years ago, after the Art Commission held negotiations with the merchants, Building Owners and Managers Association, Chevron, and the street artists, the Board of Supervisors designated five out of nine former temporary holiday spaces on Market Street (at Sutter), adjacent to the Chevron building, as permanent spaces. What was before the Program Committee now was the artists' request to make the remaining four permanent. In addition, the Program Director was requesting that three former temporary spaces

across the street, on the south side of Sutter Street, be made permanent. These seven spaces met all of the street artist ordinance's fire and public safety regulations, were designated annually as holiday spaces by the Board of Supervisors since 1982, and had been tried and found lucrative by the artists each year since.

The Program Director presented a petition he received of 43 street artists in support of making the four spaces adjacent to Chevron permanent.

In reference to the three spaces at the corner of Sutter and Market, the Program Director handed the Commissioners a letter he had just received before the meeting from Ms. Elizabeth Vines, Property Manager, Northwest Asset Manangement, which expressed opposition to the proposal.

Ms. Vines stated that she represented the owners of the Flatiron building, 540 Market Street, located at the corner of Sutter, Sansome, and Market Streets, who opposed permanent designation of the three spaces. The location of the spaces, she said, are in an area that already suffers congestion of several crosswalks, BART entrances including disabled persons access, and traffic; the spaces would make for an acute problem during peak commute hours and difficulty in navigating the intersection. The ownership of the Flatiron building did not oppose the continuation of the spaces as holiday spaces but did oppose them for permanency.

Also in opposition to permanency was Ms. Vanessa Quesada, representing the owners of Citicorp Center, who stated that she was in agreement with Ms. Vines' view of the traffic congestion, that PG&E was currently doing work on the south side of Sutter, and that that end of Sutter has many trucks and vans double-parked. In addition to the traffic itself on Sutter Street, the sidewalk in question already had a BART/Muni escalator and a news kiosk; therefore, the addition of street artist booths would add to the congestion.

Street Artist Eunice Rodriguez questioned the rationale behind the opposition's allowance for the artists to be there at Christmas but not the rest of the year when, she said, it is three times more congested in that location during Christmastime than it is the rest of the year.

Street Artist Maria Hillius questioned Citicorp's opposition to the spaces since, she said, Citicorp tolerates eight to ten illegal (unlicensed) vendors at its doorstep daily.

Ms. Quesada denied this and said her organization has security guards who patrol and make sure street vendors are not in their area.

Commissioner Rogers ascertained from Ms. Quesada that the three street artist spaces were not adjacent to but were across the street from Citicorp.

Program Director Lazar stated that his Program, in paying $15,000 a year to the Police Department to enforce the law against illegal vendors in the Downtown and Wharf areas, has for the past four years received copies of incident reports written by the Police on the illegals they cited on the Citicorp block of Sansome street. The Program Director himself, on at least one occasion while accompanying the Police, witnessed an officer having to cite an entire line of illegal vendors stretching the majority of the length of the block. It was the Art Commission who took the initiative - and still does - in tackling the problem, going back to the days when the Program Director served on a special committee of departmental reps and merchant groups organized by the City Attorney to legislatively combat illegal vendors known at the time as "charitable solicitors." Given the Art Commission's history in participation of such enforcement, as paid for by the street artists' fees, the request for three spaces designated on a temporary basis since 1982 and meeting all of the safety regulations was not, to the Program Director, extravagant.

Commissioner Freebairn-Smith asked if Citicorp had an alternative proposal to offer or whether it was simply opposed to the spaces. In response, Ms. Quesada stated that people were more tolerant of congestion during the winter holiday season than during the rest of the year, and that driving on the street was a "nightmare" due to the intersection of three major streets.

Street Artist Bill Clark stated that the street artist space regulations were created in 1975 by the Board of Supervisors when there was a lack of control after passage of the first ballot ordinance. The safety regulations were drafted by Supervisor Kopp after extensive meetings with the Fire and Police Departments and the artists' legal representative. It was the artists' position at the time, and still is, that a good number of these regulations could be mitigated in some instances as they are overly stringent and prevent the artists from applying for many viable locations in the area. It was, he said, the opinion of the best Fire and

Police officers, Supervisors, and other departmental persons at the time that if these space regulations were met, the question of possible congestion created by a proposed space would be answered. Those persons who feel there should be further restrictions should not bring their argument to the Art Commission but should take it to the Board of Supervisors.

Street Artist Linda Pedersen stated that directly across from Citicorp on Sansome Street, there are times when it's impossible to walk on that side of the street because it is a congested "hangout" for bike messengers. She went on to say that many of the street artists do not own automobiles and would therefore not be adding to the double-parking congestion.

Ms. Vines suggested that the Art Commission review the existing regulations to see how they compare with current congestion levels.

Street Artist Debra King stated that she has been in the Program for twenty years and sells twice a week in spaces adjacent to Chevron and is therefore in a position to see the traffic flow, across the street, at the intersection in question: rush hour does not happen from Market Street onto Sutter or onto Sansome; it gets caught up going the other direction, straight down Market Street to the Ferry Building. There is much less congestion, she stated, in the area in question than in most places Downtown.

Street Artist Nancy Pearlman stated that when street artists are present, there are no illegal vendors on the sidewalk. The artists, therefore, are an asset in diffusing the congestion problem.

Former Street Artist John Bass stated that the persons voicing opposition to the spaces should be aware that the space regulations are not guidelines but City law, that if they feel the law is inadequate, they could go before the Board of Supervisors and argue for revisions of the law. As for the intersection being a haven for illegal vendors, it definitely is despite whatever patrols Citicorp may be making; illegal vendors are there every time he, Mr. Bass, goes by which is twice a week - and they are in the middle of the sidewalk. Finally, the idea that the presence of three street artists would attract thousands of pedestrians who would block the sidewalk and the street is "flattering to the street artist but is absurd": one

or two people may stop every ten minutes, if the artist is fortunate.

Street Artist Leah Mazor stated she sells at the Chevron spaces twice a week; her customers know where to find her and like having the artists present. Since no one is allowed to park there, the street artists do not represent any traffic congestion.

Street Artist John Wheeler stated that the location of the three spaces would benefit Downtown customers and would not threaten the livelihood of the Flatiron building. Furthermore, by having the three spaces situated as they have been between the two crosswalks at Sansome, Sutter, and Market, bike messengers would be prevented from jumping onto and cutting across the sidewalk to Market - Mr. Wheeler could personally testify to this as an ex-bike messenger.

Street Artist John Cracas, in the Program for twelve years, stated that any location Downtown is havoc, and to say that one location would be more congested because of street artists was ridiculous and could not compare at all, for example, with the Chinatown part of Stockton street where the sidewalk is impassable.

Director of Cultural Affairs Richard Newirth stated that the congestion issue should not be at the Art Commission but at the Board of Supervisors.

Commissioner Turney observed that in relation to the current number of five permanent spaces, the addition of seven permanent ones would be "a quantum leap." Consideration could be given to making the proposed spaces temporary year-round subject to review and possible permanency.

Commissioner Freebairn-Smith stated that since no controversy had been received regarding the four spaces by Chevron, temporary status could be recommended for just the three on Sutter. Commissioner Rogers asked those in attendance if anyone opposed the Market Street spaces and received no response.

Commissioner Freebairn-Smith moved that the Board of Supervisors be requested to designate on a permanent basis four former temporary holiday spaces on Market Street, south side, 2nd to 1st Streets, and to designate for one year three former temporary holiday spaces on Sutter Street, south side, at Market Street, subject to review; the motion

was seconded by Commissioner Turney and unanimously approved.

III HEARING AND POSSIBLE MOTION TO APPROVE REQUEST TO BOARD OF SUPERVISORS FOR TEMPORARY SIX-MONTH DESIGNATION OF SIX SELLING SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS (for designation between existing spaces "H-12" and "H-13" with exemption from Section 2405(c)(6) and (5), Ord. 41-83)

Program Director Lazar referred to the map he made positioning a proposed six spaces five feet apart (as per regulation), encompassing a length of 59 feet within an open curb length of 64 feet 4 inches, and requiring exemption from Section 2405(c)(6) and (5), Ordinance 41-83, the regulations which prohibit a space from being within twelve feet of a door and within seven-and-a-half feet of a standpipe, respectively. Opposite the proposed and existing spaces is the Wharfside Building, most of which is uninhabited due to the last earthquake and is under the control of S. F. Maritime National Historic Park. The building has a boarded-over, 8-foot doorway directly opposite the southernmost proposed space and a pair of standpipes opposite the northernmost proposed space.

Mr. Lazar reported that the addition of the six spaces would benefit the artists' lottery for spaces, as even now all existing prime spaces - Beach, Jefferson, and Hyde Streets - are being taken in the weekend lotteries. After discussing the artists' request with representatives of S. F. Maritime, the Program Director received word from Supervisory Park Ranger John Cuneen that his Supervisor, Marc Hayman, and he would not oppose the request; furthermore, if S. F. Maritime personnel needed to enter the building through the Hyde Street door, they would do so early in the morning when street artists are not present.

Mr. Alessandro Baccari, Executive Secretary, Fisherman's Wharf Merchants Association, stated that, upon being notified by the Program Director, his organization called an emergency meeting on the matter. The Director of the Maritime, Mr. Bill Thomas, he said, is involved with the merchants association in an analysis on developing the maritime Hyde Street park; within one month a master plan is to be proposed. Mr. Baccari went on to say that he has never been really opposed to street artists and has been their strong advocate; his concern, however, was that "those who are true artists deserve support," as opposed to those who are not artists but are vendors which necessitate policing.

The Wharf Merchants Association, he said, would support the request for the six temporary spaces but on a four-month basis, as his group was attempting to convert the Haslett Warehouse (Wharfside Building) to create in its windows and doorways historical showcases as soon as possible. In addition, with the help of Parking and Traffic, Hyde Street, from Beach to Jefferson Streets, will be made into two-way traffic. Four months would allow the street artists to sell, while his group and departmental personnel would not be disrupted in completing their plans.

Mr. Baccari asked the Commissioners to consider making a two-month moratorium to halt new artists from entering the Program and to allow the Commission to evaluate the Program in terms of artistic talent in order "to protect the goodness of the street artists," to allow the Commissioners to go out on the streets and view "the good work that is being done," and to work with the City Attorney on a guideline to assure that the Program would be "getting artists."

In thanking Mr. Baccari, Commissioner Rogers stated that Program Director Lazar has always told him that the Fisherman's Wharf Merchants Association is highly cooperative, and now he, Commissioner Rogers, had an opportunity to see this first-hand.

Commissioner Turney noted that the Commission's screening criteria for what constitutes "acceptable art" in the Street Artists Program was approved prior to 1980, and that, according to the street artist ordinance, a "handcrafted item" is defined as "an item predominantly created or significantly altered in form by the street artist."

Street Artist Bill Clark stated that the City Attorney ruled that it would be illegal for the Art Commission to institute a moratorium on street artist licenses.

Street Artist Maria Hillius expressed her support for the proposed six spaces and presented a petition signed by 118 street artists.

In response to a question on planning schedule by Commissioner Freebairn-Smith,Mr. Baccari discussed elements of a master plan of Hyde Street and invited Program Director Lazar to be part of the planning process for consideration of a balance of street artist locations.

Commissioner Turney moved that the proposal for six temporary

spaces be amended to provide for their designation of four months instead of six months; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

Commissioner Turney moved that the Board of Supervisors be requested to designate for four months six temporary selling spaces on Hyde Street, east side, Beach to Jefferson Streets, subject to exemption from the provisions of Section 2405(c)(6) and (5) of Ordinance 41-83; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

IV HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

A. **Michel Verton - Certificate # 2509.** Alleged violations: (1) Selling items ("wurli toys") not certified by Art Commission; and (2) selling in a location not designated by Board of Supervisors (December 10, 1995 allegedly on Stockton Street, southeast corner, at O'Farrell Street). (rescheduled from March 13, 1996 Program Committee meeting)

The Program Director submitted the Police incident report written by Officer Milan Kangrga on December 10, 1995, and also submitted a copy of the written warning sent by the Program Director to Mr. Verton on December 28, 1995 after staff had observed Mr. Verton allegedly selling non-certified items (commercially manufactured toys) on December 20th.

Officer Kangrga testified to the December 10th report he had written and stated that at approximately 2 p.m. that day he was in a marked Police wagon patrolling Stockton Street when he observed Mr. Verton to be standing at the southeast corner of Stockton and O'Farrell Streets. Mr. Verton was holding a hip box with a "FOR SALE" sign and was selling "wurli-toys." The officer watched him approach two pedestrians who conversed with him. The officer then came up to him and asked to see a street permit and was told by Mr. Verton that he had none. He cited him and seized the items to be booked as evidence. After the citation was given, Mr. Verton said he had a permit but did not have it with him. He was released.

In response to questions from the Program Director, Officer Kangrga stated that Mr. Verton was not selling in any of the adjacent three spaces on Stockton Street but was on the part of the sidewalk where the two points of the cross-

walks meet.

Street Artist Michel Verton disputed where the officer stated he had been but admitted that he was not in any of the street artist spaces. He stated that he does not have a table but a basket which he uses to present a magic show; if the viewer likes the show, he buys the product which Mr. Verton uses in the show. When the officer asked him if he had a license, he said he did not have a peddler's license, and neither was he acting as a street artist.

Program Director Lazar stated that the City Attorney in 1983 clarified that it is within the Art Commission's jurisdiction to suspend or revoke the certificate of a street artist who has displayed or sold items he has not made in a location not designated for street artist activities but adjacent to a street artist location.

In response to questions by Commissioner Turney, Mr. Verton stated that he was a licensed street artist and that he told the officer he did not have a permit because the officer was talking about a peddler's permit, not a street artist permit.

Officer Kangrga stated that this "confusion" about permits was clarified during his conversation with him because another street artist came up to them, showed his own permit, and told Verton "just show your permit" to the officer. It was at that point that Verton told him he did own one but did not have it in his possession.

In response to questions from Commissioner Rogers, Mr. Verton stated that he uses his street artist permit only during the winter holiday season and chooses to pay for it throughout the year to "support the system, because I support the street artists."

Mr. Verton stated that he has been a street artist in the Program for twenty-five years, licensed to sell beadcraft and caricatures, and the ticket he received was dismissed.

Commissioner Turney commented that from what he knew of the Street Artists Program, he was an ardent supporter of it; as in the earlier reported case of the artist who spilled leather dye on the sidewalk, it is so easy for one individual to spoil the Program's benefits for the many, and as long as he, Commissioner Turney, would be on the Commission, he would push very hard for action which is

supportive of the existing regulations that the majority of artists follow. He would also endorse action which is supportive of enforcement because therein will lie the integrity and vitality of the Program.

Commissioner Freebairn-Smith moved that it be found that Michel Verton violated the street artist ordinance by selling items not certified by the Art Commission and by selling in a location not designated by the Board of Supervisors, and that Mr. Verton's certificate be suspended for a period of two months and three weeks; the motion was seconded by Commissioner Turney and unanimously approved.

The Program Director reiterated verbally to Mr. Verton what had been stated to him previously in writing: his right to appeal the decision before the Board of Permit Appeals and the time-line provided him for filing such appeal.

B. **Silina Kreisel - Certificate # 3145 - and Robert Kreisel - Certificate # 3146.** Alleged violation: Signing-in for and trading spaces (violation of lottery provision adopted by Art Commission 8/6/84: "GIVING AWAY SPACES PROHIBITED: No one may sign in for a space and give it to someone else, including family unit members.")

The Program Director referred to the written complaint submitted by Street Artist Barry Prager alleging that on January 7, 1996, Silina Kreisel signed in for Beach Street space "12" and gave it to Robert Kreisel for his use in which to sell, and that Robert Kreisel signed in for space "39" and gave it to Silina Kreisel for her use in which to sell. Attached to the complaint was the lottery sign-in sheet for the day which listed the name "Silina, 3145" entered beside space "12" and the name "Bob K, 3146" entered beside space "39." Also attached were two photographs taken by Mr. Prager who, in his letter, stated that they were taken at 4:30 p.m. and "clearly show Selina in 39 and Bob in 12."

Mr. Prager testified to seeing the Kreisels selling in each other's spaces at 2:30 p.m., whereupon he went home for his camera and photographed them at 4:30 p.m. He stated that the photos showed that the Kreisels' automobiles were parked adjacent to their allegedly traded spaces which, he said, showed "pre-planning."

Street Artist Dikran Knoble, referring to his letter which he FAXed the Program Director the day before the hearing (which was read by the Commissioners), testified that on

the weekend in question he was unable to get a good space on Saturday and Sunday and wound up selling on Hyde Street. At 1:00 he went down Beach Street to look for a better space when he saw that in space "12" Robert Kreisel was behind the display and in space "39" Silina Kreisel was behind the display. He went down the street again at 2:30 p.m. and saw Robert Kreisel in "12," sitting in a chair with his feet up on the table while he was reading a newspaper, and saw Silina Kreisel in "39," standing behind her display and talking to people in front of the display. According to the sign-in sheet, they were in each other's spaces.

Street Artist Silina Kreisel stated that Mr. Knoble said the incident occurred on Saturday, whereas her husband and she were not selling on Saturday. On Sunday, when they were selling, she merely went over to her husband's display in space "39" to talk with him; she did not go there to sell for him. She went on to say that Mr. Knoble was trying to get even with her for the time she testified against him before the Program Committee for his selling in an illegal location, and that Mr. Prager was attempting to retaliate against her for her complaint against him which resulted in a hearing before the Committee last month and a three-week suspension of his certificate.

Street Artist Robert Kreisel referred to his statements in a letter he now submitted to the Committee, that Mr. Prager was carrying out the threat he made to Mr.Kreisel that if Silina did not drop her complaint against him, he would file a claim against them for allegedly trading spaces. As for Mr. Knoble, the Kreisels had complained to the Program Committee about his selling in the illegal location between space "39" and the crosswalk. Mr. Kreisel questioned the motive of Mr. Knoble's bringing his observation to Mr. Prager. Mr. Kreisel further stated that Mr. Prager said he saw the Kreisels at 2:30, whereas in his written statement he said that Knoble saw them at 2:15 and told Prager about it and he went home and returned at 4:30 to take a picture. As to Mr. Knoble's statement that he saw the Kreisels sitting in each other's spaces, they, like many artists on the street, visit each other many times during the day. He questioned whether Mr. Prager actually saw them selling.

As for the Kreisels' cars, Mr. Kreisel stated that they could have switched the parking spaces any time they wished. He and his wife both had received good selling spaces and therefore had no incentive to trade them.

As for the photos, he said, they were taken at 4:30 - according to Mr. Prager - which makes the issue moot, as an artist's occupancy of his space is required only up to 3:00, and afterward an artist may sell in any space. Also, the only thing one photo shows is Mr. Kreisel packing up to leave, and the other photo only shows his wife sitting in her van while he is packing up for her.

In response to a question from Commissioner Rogers, Mr. Kreisel stated that he sold all day in "39" and his wife sold all day in "12."

Street Artist John Cracas testified that he has been in the Program for twelve years, that on the day in question he was selling in space "40" all day and never saw Silina Kreisel, when she was at her husband's stand, take money. She came there to visit him only.

Street Artist Eunice Rodriguez stated that the artist's defined "occupancy rule" was for the hours of 12 noon - 3:00 p.m. for persons who receive their spaces in the lottery, and that after 3 p.m. a space could be made available to anyone.

In response to questions from the Commissioners, Program Director Lazar discussed how the "occupancy rule" was adopted after the Commission had received many complaints about individuals and family units of individuals deliberately obtaining spaces for the purpose of trading which resulted in serious restriction of other artists from equal opportunity in obtaining spaces.

Commissioner Turney stated that he did not discern a preponderance of evidence in the case. However, after hearing that there have been incidents in which trading of spaces had occurred, he would encourage street artists to submit such cases because, in the end, unless the artists are willing to maintain a considerable degree of the integrity of the Program, it will not be able to sustain itself - which neither the artists nor the Commission wanted. When an artist sees something going on which brings into question the integrity of the operation of the Program "in the real world of the street," the artist becomes an accessory if he/she does not bring it forward.

Commissioner Turney moved that the charge against Silina Kreisel and Robert Kreisel of trading spaces be dismissed due to a lack of preponderance of evidence; the motion was seconded by Commissioner Freebairn-Smith and unanimously

approved.

V REQUEST BY FORMER CERTIFICATE-HOLDER FOR PRIORITY IN ISSUANCE OF CERTIFICATE WITH WAIVER OF RE-SCREENING OF WARES

A. **Daniel Ladron De Guevara - Certificate # 3870** expired December 1, 1995; Mr. De Guevara's request for priority was received by the Program on October 6, 1995, prior to Mr. De Guevara's leaving the country.

Commissioner Freebairn-Smith moved that the request by Daniel Ladron De Guevara for priority issuance of certificate with waiver of re-screening of wares be approved; the motion was seconded by Commissioner Turney and unanimously approved.

VI BRIEFING BY PROGRAM DIRECTOR ON THE LAWS, PROCEDURES, AND ACTIVITIES OF THE STREET ARTISTS PROGRAM

Commissioner Rogers tabled the item, as much time had already been given in briefing throughout the preceding items.

VII PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Street Artist Virginia Burris requested that, in the future, instead of the Program's hiring of Police officers for Saturdays and Sundays of each weekend of summer, the Program hire officers on a spot-check basis throughout the year with perhaps scheduling them for only a few hours on one day of the summer weekends, alternating Saturdays and Sundays. Commissioner Rogers asked the Program Director to explore this possibility with Sgt. Thompson of Special Law Enforcement Services.

Commissioner Freebairn-Smith moved that the meeting be adjourned; the motion was seconded by Commissioner Turney and unanimously approved.

The meeting adjourned at 5:25 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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NOTICE OF CANCELLATION OF MEETING

The regular meeting of the Art Commission's Street Artists Program Committee scheduled for Wednesday, May 8, 1996 has been cancelled.

The next meeting of the Street Artists Program Committee is scheduled as follows:

Wednesday, June 12, 1996
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco.

The primary topic on the agenda will be a discussion on plans for the 25th anniversary of the Street Artists Program.

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7/10/96

SAN FRANCISCO ART COMMISSION

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SUITE 70
415.252.2581

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, July 10, 1996
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

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A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE CITY ATTORNEY DRAFT LEGISLATION PROVIDING FOR $25 NON-REFUNDABLE FEE FOR APPLICANTS FOR STREET ARTIST CERTIFICATION AND FOR FORMER CERTIFICATE-HOLDERS REQUESTING PRIORITY ISSUANCE OF CERTIFICATION, TO COVER THE ARTS COMMISSION'S COSTS OF ADMINISTERING THE STREET ARTIST APPLICATION/EXAMINATION PROCESS**

II **HEARING AND POSSIBLE MOTION TO APPROVE AGREEMENT WITH FILM COMMISSION FOR FILM COMPANIES AND PHOTOGRAPHERS TO COMPENSATE STREET ARTISTS PROGRAM $ 200 PER DAY PER STREET ARTIST SPACE USED OR ADVERSELY AFFECTED BY FILMING/PHOTOGRAPHING ACTIVITY**

III **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES**

A. **Farid Samara - Certificate # 4778.** Alleged violation: Conducting business in a disorderly, improper or hazardous manner (spilling leather dye on sidewalk). (Hearing requested by Program Committee.)

B. **Cheryl Chen - Certificate # 3744.** Alleged violation: Exceeding three-foot display width requirement (Ord.41-83, Section 2405(c)(1) and (2)) on May 24, 30, and 31, 1996.

C. **Zhong Chen - Certificate # 4017.** Alleged violations: (1) Displaying items (commercially manufactured pendants) not of the artist's own creation on May 24, 1996; and (2) exceeding three-foot display width requirement (Ord. 41-83, Section 2405(c)(1) and (2)) on May 24 and 31, 1996.

IV **HEARING ON PLANS FOR 25TH ANNIVERSARY OF STREET ARTISTS PROGRAM AND POSSIBLE MOTION TO NAME A CHAIR FOR SUBCOMMITTEE TO PLAN THE EVENT**

V **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS**

CITY AND COUNTY OF SAN FRANCISCO

PROGRAM

VI **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VII **ADJOURNMENT**

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline at** (415)554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHIRE ORDINANCE TASK FORCE AT 554-6075

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STREET ARTISTS PROGRAM COMMITTEE

July 10, 1996
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, Anthony Turney

Commissioners absent: Maria X. Martinez, Janice Mirikitani

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, convened the meeting at 3:07 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE CITY ATTORNEY DRAFT LEGISLATION PROVIDING FOR $25 NON-REFUNDABLE FEE FOR APPLICANTS FOR STREET ARTIST CERTIFICATION AND FOR FORMER CERTIFICATE-HOLDERS REQUESTING PRIORITY ISSUANCE OF CERTIFICATION, TO COVER THE ARTS COMMISSION'S COSTS OF ADMINISTERING THE STREET ARTIST APPLICATION/EXAMINATION PROCESS**

The Commissioners reviewed the draft legislation and noted, from the City Attorney's accompanying letter, that the purpose of the application fee would be to cover only the costs of the administration of the application/examination procedures - these are primarily the costs of staff time in notifying applicants, scheduling and attending the examinations, and the compensation for the Advisory Committee of Street Artists and Craftsmen Examiners. The application fees could not be used to finance the certification process or enforcement of the ordinance, nor could they result in a windfall to the Commission.

Program Director Lazar reported that the City Attorney's office had clarified verbally that, in addition to paying the initial $25 fee, an applicant approved for certification would pay the full certification fee ($87.50 for a three-month certificate or $350 for a one-year certificate).

Commissioner Freebairn-Smith stated that the amount of the fee added to the certificate fee seemed modest enough, and that no one attending the current and past meetings on the proposal had expressed that these amounts were punitive; the amounts did not seem to be prohibitive for anyone seriously seeking to become a street artist.

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Commissioner Freebairn-Smith moved that the City Attorney draft legislation providing for $25 non-refundable application fee be approved; the motion was seconded by Commissioner Turney and unanimously approved.

II HEARING AND POSSIBLE MOTION TO APPROVE AGREEMENT WITH FILM COMMISSION FOR FILM COMPANIES AND PHOTOGRAPHERS TO COMPENSATE STREET ARTISTS PROGRAM $200 PER DAY PER STREET ARTIST SPACE USED OR ADVERSELY AFFECTED BY FILMING/PHOTOGRAPHING ACTIVITY

The Commissioners noted the points made in the Program Director's memo resulting from a meeting he and three street artists had with Director of Filming Robin Eickman, Film and Video Arts Commission, and two location directors. These points would be incorporated in an agreement, drafted by the City Attorney, between the Film and Video Arts Commission and the Street Artists Program.

In summary, film companies and still photographers would compensate the Street Artists Program $200 per day per street artist space used or adversely affected by filming or photographing between the hours 10:00 a.m. - 10:00 p.m. Furthermore, if a film company were to request a street artist to remain in the space for which the film company has paid, the artist would not be prohibited from negotiating with the film company a fee for services as an "extra" to be paid directly to the artist, independent of the fee paid to the Street Artists Program for the space.

Director of Filming Eickman stated that this represented a solution to problems that have occasionally arisen when movie companies have displaced street artists from their spaces without prior notification to the Street Artists Program.

Commissioner Rogers thanked Ms. Eickman for her cooperation.

In response to a question by Commissioner Freebairn-Smith on student or low-budget filmmaking, Ms. Eickman said she would encourage low-budget filmmakers seeking to film in a street artist area to do their filming prior to 10:00 a.m. (in keeping with the upcoming agreement).

Commissioner Freebairn-Smith acknowledged that the big studio-type production whose cameras and mobile dressing rooms would obscure the street artists would be well able to afford the provisions of the agreement.

In response to possible criticism that this could be another example of "increased government" for getting permission to do simple things, Ms. Eickman stated that she felt that ninety percent of the movie companies would be much happier knowing that artists would be given prior notice and compensation rather than a movie company showing up on location and having to face the issue of displacing street artists.

Program Director Lazar stated that the issue of how the movie compensation is to be disbursed will be calendared for the Committee's next agenda.

Street Artists Debra King, Ronnie Taylor, and Virginia Travers, who had participated in its negotiations, endorsed the upcoming agreement.

Ms. Eickman said she will become more familiar with the maps of all the street artist locations so that she will be able to refer the film companies to Mr. Lazar when they are about to impact street artist spaces.

Commissioner Freebairn-Smith moved that the agreement between the Street Artists Program and the Film and Video Arts Commmission for film companies and photographers to compensate the Street Artists Program $200 per day per street artist space used or adversely affected by filming/ photographing activity be approved; the motion was seconded by Commissioner Turney and unanimously approved.

III HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

A. **Farid Samara - Certificate # 4778.** Alleged violation: Conducting business in a disorderly, improper or hazardous manner (spilling leather dye on sidewalk).

Program Director Lazar stated that at the Program Committee meeting of April 10th, upon receiving a complaint that Mr. Samara had spilled leather dye while selling on the sidewalk of the west side of Stockton Street at O'Farrell, the Committee requested that a hearing on the matter be held. Mr. Lazar submitted an invoice for cleanup supplies purchased by Mr. Samara which were used by Mr. Samara to clean the sidewalk.

Certification Clerk Antoinette Worthy testified to the May 4th field inspection report she had written, stating

that she had observed that the street artist section of the sidewalk had been cleaned and there were no leather dye stains.

The Program Director stated that Mr. Samara took responsibility for his action and cleaned up the area himself.

With Street Artist Virginia Travers translating for him, Mr. Samara submitted photos he took of the cleaned up area and stated that the sidewalk was now cleaner than before he ever sold there. He had spilled the dye which was on his table while he had attempted to chase a thief who had taken one of his belts. Now he keeps his dye inside a suitcase. He apologized for having spilled the dye, he would see to it that it would not happen again, and he was grateful for the opportunity to work in this country.

Ms. Thuy Nguyen of 55 Stockton Street (the building adjacent to the space in which Mr. Samara had spilled the dye) submitted photos taken, she said, on February 1st, May 22nd, and May 23rd, of the adjacent spaces in which, she stated, Mr. Samara had left scraps of leather after selling there. Ms. Nguyen stated that the photos were taken at 7 a.m. following the days Ms. Samara had occupied the space. She further stated that Mr. Samara does not place the dye inside his suitcase. The scraps of leather she felt were left by Mr. Samara because he has been the only leather craftsman she has seen using the spaces.

Mr. Samara responded that when he finishes trimming belts for customers, he disposes all of the scraps.

Street Artists Virginia Travers and Eunice Rodriguez stated that other artists, including leathercraftsmen David Jones and David Mack, have sold in the spaces.

Street Artist Ronnie Taylor stated that while he believes Mr. Samara cleans up after himself, he should be made to understand that he must pick up not just the major scraps but all the leather shavings as well. Street Artist Eunice Rodriguez stated that she sells at Justin Herman Plaza and always sweeps her area before and after she sells.

Commissioner Turney stated that he was impressed by the fact that Mr. Samara had made effort to do clean up the dye and did so satisfactorily. As for the problem of leather scraps, he asked that it be made abundantly clear to Mr. Samara that he must thoroughly clean his space

after using it. Viewing the photos submitted by Ms. Nguyen, the Commissioner stated that there did not appear a wholesale disregard of what a street artist's responsibilities are; therefore, a warning should be given.

Commissioner Rogers verbally conveyed this warning to Mr. Samara; Ms. Travers translated it.

Commissioner Freebairn-Smith told Ms. Nguyen that he wanted her property owners to know the level of concern the Commission was expressing in this matter; in relation to other matters of City government, much attention was being given to a very small detail on a sidewalk.

Commissioner Turney moved that Farid Samara be found to have violated the street artist ordinance by disorderly and improper conduct of business (spilling leather dye on sidewalk), and that Mr. Samara be warned that any future finding by the Art Commission of Mr. Samara's conducting business in a disorderly or improper manner will result in a suspension of his certificate; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

B. **Cheryl Chen - Certificate # 3744.** Alleged violation: Exceeding three-foot display width requirement (Ord. 41-83, Section 2405(c)(1) and (2) on May 24, 30, and 31, 1996.

Program Director Lazar reported that at various times during the preceding year he had verbally told Ms. Chen that she was violating the three-foot display width requirement by extending display racks clamped with C-clamps to her tabletop. The racks made the display approximately three and a half feet wide and, more significantly, posed a safety problem as they extended into the pedestrian aisleway, thus violating the requirement for ten feet of passageway which street artists must provide. In addition, the use of the extended racks increased Ms. Chen's available display space, giving her a distinct advantage over all other artists in displaying small-scale items as jewelry.

On April 26th, the Program Director found Ms. Chen in violation again. According to his logbook, at 2:30 p.m. he "reminded her that" he "had asked her several times during the past year to retract the display racks and conform to regulation, that if she failed to comply," he "would notify her for a hearing to suspend her certificate. She said she would retract the racks right away. ... By the time" he "left the area at 5:00 p.m., the racks were

still extended on her display." The Program Director sent her a written warning, on May 2nd, stating that any future observation of her exceeding the display width requirement would result in a hearing to suspend her certificate, and a possible suspension of three weeks.

Thereafter, the Program Director observed and photographed Ms. Chen in three incidents of such violation: May 24th, 30th, and 31st. (The Commissioners reviewed these photos and accompanying log reports.) With regard to the incident of May 24th, the Program Director told both Cheryl Chen and Zhong Chen - who was also found that day to be exceeding the width regulation with clamped-on racks - that the "photos would be used as evidence in a hearing in July to suspend their certificates for violating the display width-size regulation." The Program Director told the Commissioners that he had attempted to communicate verbally and in writing how the Chens were in ongoing violation and the consequences facing them. At one time he explained to them the reasons for the regulation.

Nevertheless, on May 30th, just six days after the first photographed incident, the Program Director photographed Ms. Chen again in violation, extending over a foot. Just one day later, the Program Director photographed her again.

Ms. Chen apologized to the Commissioners and said that she had not really understood the problem with the extension until another street artist very recently explained it to her.

Commissioner Rogers stated that the Program Director had attempted to explain it to her four times and found it hard to believe that she had not understood.

Ms. Chen stated that she thought she had to move her table.

Street Artist Eunice Rodriguez testified that she sold next to Ms. Chen on February 28, 1996, on Beach Street and asked her to retract "that bracelet bar, and she wouldn't do it." She told her that she was extending too far, by a foot. Ms. Rodriguez said she remembered the date because it was the last day she sold on Beach Street.

Commissioner Turney verified with the Program Director that in an earlier incident (April 26th) Ms. Chen agreed to retract the extension, and did not. Also, this matter

was also expressed in writing to her. While the richness of San Francisco includes, he said, artists who may have difficulty with English, there is also some responsiblity on the artist to ensure that they understand or find a way of understanding the communications of the Art Commission.

Commissioner Freebairn-Smith noted that over the long duration of incidents, Ms. Chen had time to get help in understanding the regulation.

Ms. Chen said she wanted to do right and said, "I guarantee no more next time." She added that she never received the warning letter.

Commissioner Rogers stated that he believed the Program Director made every effort to communicate the problem to Ms. Chen, but Ms. Chen continued in violation. He did not believe the Program Director had just talked to her about what needed to be done but had shown her.

Commissioner Turney moved that Cheryl Chen be found in violation of the street artist ordinance by exceeding the display width requirement (Section 2405(c)(1) and (2)), and that Ms. Chen's certificate be suspended for three weeks; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

C. **Zhong Chen - Certificate # 4017.** Alleged violations: (1) Displaying items (commercially manufactured pendants) not of the artist's own creation on May 24, 1996; and (2) exceeding three-foot display width requirement (Ord. 41-83, Section 2405(c)(1) and (2)) on May 24 and 31, 1996.

Program Director Lazar stated that he wished to withdraw the charge of displaying items not of the artist's own creation because the photos he had taken were not strong evidence.

With regard to the second charge, the Program Director reported that, as in the case of Cheryl Chen, he had on several occasions during the past year verbally requested Mr. Chen to stop exceeding the display width regulation with his use of display racks C-clamped to his tabletop. On April 26, 1996, the same day he had verbally warned Cheryl Chen, the Program Director found Mr. Chen with "display rack/armatures attached to his tabletop with C-clamps and extending forward about six inches beyond the

three-foot width requirement" (according to the Program Director's logbook). He sent Mr. Chen a warning letter (separate from the one sent to Cheryl Chen) on May 2nd, advising him to refrain from extending his display with C-clamps and making it in violation or face a possible suspension of three weeks.

On May 24th he photographed both Zhong Chen and Cheryl Chen in violation of the width requirement and (according to the log entry) "told both" artists "that these photos would be used as evidence in a hearing in July to suspend their certificates for violating the display width-size regulation."

On May 31st, seven days later, he photographed both again in violation. In this incident, Mr. Chen "asked" the Program Director "what the problem was;" he "told him he was again in violation of the width size regulation."

The Commissioners reviewed the photos. With regard to the May 31st incident, the Program Director pointed out that Mr. Chen was set up on Jefferson Street, a narrow sidewalk, whereby Mr. Chen's extended racks could have posed a safety problem. Furthermore, Jefferson Street is under the control of the Port Commission which only recently voted to allow street artists to sell in spaces that were marked by Mr. Lazar and the Port personnel in strict accord with the 3' x 4' space regulations: the condition under which the Port granted the spaces is that the artists abide strictly to all street artist regulations, especially those governing size of display, and that these be strongly enforced by the Art Commission.

Mr. Chen denied that the Program Director told him what the problem was when he asked him. He also stated that he did not receive the warning letter.

Commissioner Rogers stated that it appeared that the Program Director was trying to communicate to Mr. Chen that "something is very wrong"; the Commissioner could not "believe that over and over again" Mr. Chen "would misunderstand him." Aside from this, it was very clear how big an artist"s booth is supposed to be. The Commissioner said that he found it hard to believe that Mr. Chen did not understand what the problem was, that the Program Director had communicated adequately the problem, and that Mr. Chen did not respond, did not correct the problem. The Commissioner added that the Program Director, over

a year, gave Mr. Chen ample opportunity to correct the problem, but Mr. Chen did not do so.

Commissioner Freebairn-Smith stated that he felt both Cheryl and Zhong Chen understood clearly that what they were doing was a clear violation of the rules and that it was not necessary to discuss how the Program Director handled these violations. The evidence, he said, showed clearly the type of violation.

Street Artist Leah Mazor stated that there are many Chinese artists in the Program who speak perfect English and understand the rules; if the Chens did not understand what the Program Director was telling them, they could have gone to any of these people for a translation.

Commissioner Turney stated that he believed the integrity of the Program rests on the willingness of the street artists to comply with the regulations; if they do not, they, in the end, will lose their Program. Therefore, as long as he is on the Committee, he will push for very strict - though compassionate - interpretation of the regulations, because in the long run the artists will benefit from this. His interest, he said, was in retaining the Program, not having it sabotaged or giving those who do not agree with this kind of Program further ammunition to try to destroy it. Therefore, "it's about self-regulation."

Commissioner Turney moved that Zhong Chen be found in violation of the street artist ordinance by exceeding the display width requirement (Section 2405(c)(1) and (2)), that Zhong Chen's certificate be suspended for three weeks, and that Zhong Chen's and Cheryl Chen's suspensions be served consecutively (not concurrently); the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

Ms. Cheryl Chen requested that Zhong Chen's suspension precede hers. This would mean that Zhong Chen's suspension would be from August 5 to 25, and Cheryl Chen's suspension would be from August 26 to September 15.

Commissioner Freebairn-Smith moved that Zong Chen's certifcate suspension period terminate immediately before the suspension period of Cheryl Chen's certificate (that Cheryl Chen's certificate suspension period commence immediately after Zhong Chen's suspension period); the motion was seconded by Commissioner Rogers, and the vote was as fol-

lows: Ayes - Freebairn-Smith, Rogers; No - Turney.

IV HEARING ON PLANS FOR 25TH ANNIVERSARY OF STREET ARTISTS PROGRAM AND POSSIBLE MOTION TO NAME A CHAIR FOR SUBCOMMITTEE TO PLAN THE EVENT

Commissioner Rogers stated he wanted to see a subcommittee formed to plan the Program's 25th anniversary, to be liaison with Program Director Lazar and therefore with the street artists.

Director of Cultural Affairs Newirth stated that this is really a momentious occasion, and he felt that the Commission should have a big celebration, not just a one-day event but an entire month of celebration of the Street Artists Program. The Commission should see about either paying for the celebration or approaching companies supportive of the Commission, to see if they would donate space or posters, as was done for the 25th anniversary of the Community Cultural Centers, and to see if posters about the Street Artists Program could be donated for the kiosks and bus shelters.

In reference to a plan for a show of street artists works in the Commission's Gallery (as one event of the celebration), Gallery Director Rupert Jenkins responded to questions from the Commissioners. Mr. Jenkins stated that he was favorable to doing a two-week exhibition for mid-July, 1997, or six weeks earlier or later, as depending on the Gallery's schedule of shows. He envisioned a show that would reflect the diversity of the street artists, works of 20 - 40 artists selected by outside jurors. He proposed that non-cash recognition awards be given, as Walnut Creek had presented a "Mayor's Award" - various departmental personnel had been invited to select pieces to award. The Commission could also do a street artist fashion show as a fundraiser, augmented by an auction and by publicity T-shirts.

Mr. Jenkins said he did not have the budget to support such a show; the Street Artists Program would have to bear the costs of publicity - approximately $1,350 in printing and mailing. The street artists would not have to pay rent for the Gallery. If there were sales, the Gallery would get a commission of 25%. The Gallery could provide people to do the installing of the works.

Street Artist Mike Granatt stated that the Commission should consider using funds it will receive from the film companies (as compensation for displacing street artist spaces) to help cover the costs of publicity for the celebration.

Program Director Lazar reported that he had found out from the Department of Parking and Traffic that the application fee (submitted to DPT) for closing Beach Street, Hyde to Larkin, is $80, that such closure would have to be reviewed in public hearing by the IDPSCOT Committee, that the Street Artists Program should go door-to-door to the merchants on the block informing them of the proposal for closure, that other separate fees are involved for amplified music, food, cooking, banners, etc., and that $1 million liability insurance must be obtained through the City Risk Manager.

Commissioner Rogers stated that one of the first orders of business will be to decide on the date of the celebration. He reported that the Commission's President has already approached Mayor Brown with this and has received a directive to make it a grand event. Commissioner Rogers added that he wanted to see a Mayoral proclamation designating "street artists month" and that the artists should sell at the celebration.

Street Artists Leah Mazor and Bill Clark proposed that the Program apply to the Recreation-Park Department for a permit to use Justin Herman Plaza for one weekend as part of the event (one weekend the Program could celebrate at the Plaza and another weekend on Beach Street).

Commissioner Freebairn-Smith moved that Commissioner Turney be appointed as Chair of the Subcommittee to Plan the 25th Anniversary Celebration of the Street Artists Program; the motion was seconded by Commissioner Rogers and unanmously approved.

As Commissioner Turney had to leave, Commissioner Freebairn-Smith moved to adjourn the meeting; the motion was seconded by Commissioner Turney and unanimously approved. The meeting adjourned at 5:06 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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NOTICE OF CANCELLATION OF MEETING

The regular meeting of the Art Commission's Street Artists Program Committee scheduled for Wednesday, August 14, 1996 has been cancelled.

The next meeting of the Street Artists Program Committee is scheduled as follows:

Wednesday, September 11, 1996

3:00 p.m.

Art Commission Conference Room

Suite 70 (basement area)

25 Van Ness Avenue

San Francisco.

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SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

N O T E:
NEW DATE OF MEETING

Friday, September 20, 1996
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

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A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA, FOR NOVEMBER 15, 1996 - JANUARY 15, 1997**

(The Program Director proposes the **same** 52 temporary selling spaces in the Downtown area as had been designated for the last four winter holiday seasons and the **same** 7 spaces at Harvey Milk Plaza as had been approved the last winter holiday season and the winter season of 1992-93 - and the **same** time period as had been approved for the last six years.)

II **HEARING AND POSSIBLE MOTION TO ENDORSE PROGRAM DIRECTOR'S IMPLEMENTATION OF PROVISION IN SECTION 5 OF PROPOSITION "L" (STREET ARTIST ORDINANCE) OF NOVEMBER, 1975 ELECTION WHEREBY A CERTIFICATE SHALL NOT BE ISSUED (OR RENEWED) IF CHARGES OF DECEPTION RESORTED TO IN OBTAINING THE CERTIFICATE, OR ANY OTHER VIOLATION OF THE APPLICABLE PROVISIONS OF THE SAN FRANCISCO MUNICIPAL CODE, HAVE BEEN FILED WITH THE ART COMMISSION**

III **HEARING AND POSSIBLE MOTION TO APPROVE CITY ATTORNEY DRAFT LEGISLATION TO REIMBURSE THE ART COMMISSION'S STREET ARTISTS PROGRAM FOR ITS COSTS OF ENFORCING THE STREET ARTIST ORDINANCE IN PART FROM FINES COLLECTED FOR VIOLATIONS OF THE STREET ARTIST ORDINANCE**

IV **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL SUBMITTED BY STREET ARTIST VIRGINIA TRAVERS FOR DISTRIBUTION OF COMPENSATION COLLECTED BY STREET ARTISTS PROGRAM FROM FILM COMPANIES AND PHOTOGRAPHERS FOR STREET ARTIST SPACE USED OR ADVERSELY AFFECTED BY FILMING/PHOTOGRAPHING**

(Proposal is to put such used or adversely affected spaces

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into the regular street artist spaces lottery of the day the spaces are used or adversely affected; artists "signing in" for such spaces may not use them but will receive $200 from the Street Artists Program within three weeks (the amount of compensation per space to be received by the Program from film companies/photographers); any compensation leftover from used/adversely affected spaces not selected in the lottery may be saved by the Program for various usages - e.g., an emergency fund for artists with heavy medical, funeral, or burial expenses.)

V **REQUEST BY APPLICANT FOR WAIVER OF 15-DAY POLICY IN OBTAINING CERTIFICATE**

A. **Valeree Turner** - approved by Advisory Committee of Street Artists and Craftsmen Examiners on February 29, 1996; request received from Ms. Turner on March 8, 1996 for postponement of certification until October, 1996.

VI **HEARING ON REQUEST BY KRISTINE MAR AND MURRAY ARTHERTON TO APPEAL AUGUST 29, 1996 RECOMMENDATION BY ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO NOT CERTIFY MS. MAR AND MR. ARTHERTON FOR "ART PINS", AND POSSIBLE MOTION TO APPROVE OR DISAPPROVE ADVISORY COMMITTEE RECOMMENDATION**

VII **PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM**

VIII **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IX **ADJOURNMENT**

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline at** (415)554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHIRE ORDINANCE TASK FORCE AT 554-6075.

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STREET ARTISTS PROGRAM COMMITTEE

September 20, 1996
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, Anthony Turney

Commissioner absent: Maria X. Martinez

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, convened the meeting at 3:35 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA FOR NOVEMBER 15, 1996 - JANUARY 15, 1997**

Program Director Lazar submitted his proposal for the same 52 temporary selling spaces in the Downtown area as had been designated for the last four winter holiday seasons and the same 7 spaces at Harvey Milk Plaza as had been approved for the last winter holiday season and the winter season of 1992-93, their designation for the same time period as had been approved for the last six years. This will be the 15th consecutive year that the Art Commission will be requesting winter holiday spaces - additional to the year-round spaces - on behalf of the street artists.

Ms. Ann Paolini, Vice President and General Manager of Neiman Marcus, 150 Stockton Street, told the Commissioners that her store entered into a partnership with Disney and, for this winter, will have Disney-animated windows which will attract crowds. In anticipation of this, her store intends to place stanchions and crowd controllers on the Stockton Street sidewalk which, with the presence of the street artists, could create a gridlock. Therefore, for this winter holiday season, Ms. Paolini proposed that the artists be relocated elsewhere.

Street Artist Bill Clark urged the Commissioners to endorse the Program Director's proposal as is which would still allow the artists opportunity to search for optional spaces; if optional spaces cannot be found, it would be left up

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to the Board of Supervisors to say "yes" or "no" to the spaces outside of Neiman Marcus.

Street Artists Maria Hillius and Larry Rosenbloom clarified that the holiday spaces outside of Neiman Marcus are four and have traditionally been the best four spaces in the Downtown proposal. Also, they have always been located between the tree planters and therefore have not interfered with the pedestrian traffic flow. They asked the Commissioners to support the proposal as is.

Director of Cultural Affairs Richard Newirth clarified that, in the past, when there has been a question on whether a proposed street artist space would impact the public safety, it has been a matter for the Board of Supervisors to decide.

Commissioner Turney expressed concern over the possibility of street artists being displaced by a store's plans.

Street Artist Kathy Hallinan proposed that the Program Director meet with Ms. Paolini to discuss the spaces and the stanchions.

Ms. Paolini suggested that the four spaces be relocated across the street (near Macy's). This was supported by Street Artist Virginia Burris.

Commissioner Turney moved to approve the proposal by the Program Director for Board of Supervisors designation of temporary winter holiday selling spaces for street artists in the Downtown area and at Harvey Milk Plaza for November 15, 1996 - January 15, 1997; the motion was seconded by Commissioner Freebairn-Smith and unanimoously approved.

Commissioner Turney moved to authorize the Program Director to work with representatives of Neiman Marcus and Macy's and three street artists in exploring a solution to the possible congestion problem of 4 winter holiday spaces and crowd-control stanchions in front of Neiman Marcus windows on Stockton Street, east side, at Geary Street; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

II **HEARING AND POSSIBLE MOTION TO ENDORSE PROGRAM DIRECTOR'S IMPLEMENTATION OF PROVISION IN SECTION 5 OF PROPOSITION "L" (STREET ARTIST ORDINANCE) OF NOVEMBER 4, 1975 ELECTION WHEREBY A CERTIFICATE SHALL NOT BE ISSUED (OR RENEWED)**

IF CHARGES OF DECEPTION RESORTED TO IN OBTAINING THE CERTIFICATE, OR ANY OTHER VIOLATION OF THE APPLICABLE PROVISIONS OF THE SAN FRANCISCO MUNICIPAL CODE, HAVE BEEN FILED WITH THE ART COMMISSION

The Program Director stated that the Deputy City Attorney assigned to the Art Commission clarified that, under the existing street artist ordinance, the Program Director, on behalf of the Commission's Executive Director, has the authority to refuse to issue or renew a street artist certificate if a report has been filed of the artist's having committed any violation of the street artist ordinance - e.g., selling an item not certified by the Commission, selling in an illegal location, selling with an oversized display, etc. The Program Director outlined his proposal of a step-by-step procedure of receiving a complaint, issuing a warning to the artist, receiving another complaint, issuing a notice that the Program Director will refuse to renew the artist's certificate, the artist having a meeting with the Program Director to review the complaints, the Program Director's consideration of authorizing renewal of the certificate, the Program Committee's hearing the artist's appeal of denial of renewal, and the Board of Permit Appeals' hearing of the Program Committee's decision to deny renewal. Program Director Lazar asked that the Commission endorse his implementation of the authority so provided in the ordinance, and stated that he would send an announcement of the procedure to all 430 artists in the Program.

The following street artists spoke against the Program Director's exercising this authority: Dolores Kalom, Virginia Burris, Robert Siu, Larry Rosenbloom, Kathy Hallinan, Keith Hillius, Maria Hillius.

The following street artists spoke for the Program Director's exercising this authority: Bill Clark, George Shuey, Viva Amzil, Martin Taber. In addition, former street artist John Bass spoke for it.

Commissioner Freebairn-Smith suggested a three-month trial period for the procedure. This was endorsed by Commissioner Rogers who stated that he wanted to see strengthened the staff's ability to enforce problem areas of the Program and that, since authority for this was already provided in the ordinance, he would vote to endorse the procedure.

Commissioner Turney stated that he wanted to see the Program

strengthened by enforcement of the rules, and that he wanted to see the proposed procedure in writing and widely disseminated among the artists.

Commissioner Turney moved to approve the Program Director's recommendation to implement the provision in Section 5 of Proposition "L" (Street Artist Ordinance) on November 4, 1975 election whereby a street artist certificate shall not be issued (or renewed) if charges of deception resorted to in obtaining the certificate, or any other violation of the applicable provisions of the San Francisco Municipal Code, have been filed with the Art Commission; and moved with requests that criteria and guidelines for such implementation be carefully drafted and made widely available and that staff report to the Art Commission at a public hearing in six (6) months as to the impact of this change in enforcement of the Street Artist Ordinance; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

III **HEARING ON REQUEST BY KRISTINE MAR AND MURRAY ARTHERTON TO APPEAL AUGUST 29, 1996 RECOMMENDATION BY ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO NOT CERTIFY MS. MAR AND MR. ARTHERTON FOR "ART PINS", AND POSSIBLE MOTION TO APPROVE OR DISAPPROVE ADVISORY COMMITTEE RECOMMENDATION**

Advisory Committee Member Susan Tibbon stated her Committee's position that, while the "art pins" evidenced a high standard of craftsmanship, the pins did not fall within the Program's guidelines - specifically, that for elements not made by the street artist to be the primary focus of the artist's artwork, they must be significantly altered by the artist. The Advisory Committee disapproved Ms. Mar and Mr. Artherton's pins because the dominant or primary focus of the pins were non-altered reproductions of famous 18th, 19th, and 20th century paintings.

Attorney Laura Woodward, representing Ms. Mar and Mr. Artherton (also in attendance), referred to her letter of August 30th to the Program Director in which she put forth the argument that her clients' cutting up of the postcards of public domain artworks into irregular shapes and mounting them constituted significant alteration "since the original postcard is now unrecognizable" and met with the requirements for "handcrafted item" contained in Section 2401(b) of the Street Artist Ordinance.

Street Artist Virginia Travers spoke in support of Ms. Mar and Mr. Artherton as having significantly altered the images.

Advisory Committee Member Josie Grant described the history of her Committee's denial of items whose predominant focal element was not altered by the artist. When her Committee first examined Ms. Mar and Mr. Artherton's pins, the Committee did not approve them but suggested that the two artists make them into more of an "assemblage" and submit them for consideration. The Advisory Committee found the artists nevertheless selling the pins on their table and refusing to remove them when so asked by the Committee.

The Commissioners examined the items in question and discussed their inherent "creative expression": the aesthetic judgment the artists' make in selecting what is to be used and what is to be left behind when they cut up the reproductions and when they shape the piece.

Commissioner Turney moved to disapprove the recommendation by the Advisory Committee of Street Artists and Craftsmen Examiners to not certify Kristine Mar and Murray Artherton for "art pins"; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

Commissioner Rogers admonished Ms. Mar and Mr. Artherton to be more respectful of the Art Commission and to not sell any item from their table which has not been approved.

IV HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY APPLICANT FOR WAIVER OF 15-DAY POLICY IN OBTAINING CERTIFICATE

Valeree Turner - approved by Advisory Committee of Street Artists and Craftsmen Examiners on February 29, 1996; request received by Program from Ms. Turner on March 8, 1996 for postponement of certification until October, 1996. Commissioner Freebairn-Smith moved to approve the request by applicant Valeree Turner for waiver of the 15-day policy in obtaining a certificate; the motion was seconded by Commissioner Turney and unanimously approved.

V HEARING AND POSSIBLE MOTION TO APPROVE CITY ATTORNEY DRAFT LEGISLATION TO REIMBURSE THE ART COMMISSION'S STREET ARTISTS PROGRAM FOR ITS COSTS OF ENFORCING THE STREET ARTIST ORDINANCE IN PART FROM FINES COLLECTED FOR VIOLATIONS OF THE STREET ARTIST ORDINANCE

The Commissioners acknowledged receiving a copy of the legislative draft which would implement their support, as expressed on February 14, 1996, of the Program Director's pursuit of reimbursement out of collected fines imposed by Police officers hired by the Program to enforce the ordinance against unlicensed vendors.

Commissioner Turney moved to approve the City Attorney draft legislation to reimburse the Art Commission's Street Artists Program for its costs of enforcing the Street Artist Ordinance in part from fines collected for violations of the Street Artist Ordinance; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

VI HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL SUBMITTED BY STREET ARTIST VIRGINIA TRAVERS FOR DISTRIBUTION OF COMPENSATION COLLECTED BY STREET ARTISTS PROGRAM FROM FILM COMPANIES AND PHOTOGRAPHERS FOR STREET ARTIST SPACE USED OR ADVERSELY AFFECTED BY FILMING/PHOTOGRAPHING

Commissioner Rogers stated that the item would be continued to the next Program Committee meeting.

Commissioner Turney moved to adjourn the meeting; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

The meeting adjourned at 6:08 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

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#2

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10/9/96
Canceled

NOTICE OF CANCELLATION OF MEETING

The regular meeting of the Art Commission's Street Artists Program Committee scheduled for Wednesday, October 9, 1996 has been cancelled.

The next meeting of the Street Artists Program Committee is scheduled as follows:

Wednesday, November 13, 1996

3:00 p.m.

Art Commission Conference Room

Suite 70 (basement area)

25 Van Ness Avenue

San Francisco.

CITY AND COUNTY OF SAN FRANCISCO

#47

SAN FRANCISCO ART COMMISSION

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STREET ARTISTS PROGRAM COMMITTEE

Wednesday, November 13, 1996
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

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A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

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11/13/96

I **HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S DRAFT CRITERIA AND GUIDELINES, AS APPROVED BY CITY ATTORNEY, FOR IMPLEMENTING PROVISION IN SECTION 5 OF PROPOSITION "L" (STREET ARTIST ORDINANCE) OF NOVEMBER, 1975 ELECTION WHEREBY A CERTIFICATE SHALL NOT BE ISSUED (OR RENEWED) IF CHARGES OF DECEPTION RESORTED TO IN OBTAINING THE CERTIFICATE, OR ANY OTHER VIOLATION OF THE APPLICABLE PROVISIONS OF THE SAN FRANCISCO MUNICIPAL CODE, HAVE BEEN FILED WITH THE ART COMMISSION; SUCH CRITERIA AND GUIDELINES TO BE MADE WIDELY AVAILABLE AND THAT STAFF REPORT TO ART COMMISSION AT A PUBLIC HEARING IN SIX (6) MONTHS AS TO THE IMPACT OF THIS CHANGE IN ENFORCEMENT OF THE STREET ARTIST ORDINANCE**

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE**

Hubert Emerseon Ortis - Certificate # 4656. Alleged violation: Conducting business in a disorderly, improper or hazardous manner (threatening and verbally abusing a Parking Control Officer and verbally abusing Police Officers on July 18, 1996, 700 block of Beach Street).

III **HEARING ON PROPOSALS, INCLUDING BUT NOT LIMITED TO THE FOLLOWING PROPOSALS, FOR USAGE OF COMPENSATION COLLECTED BY STREET ARTISTS PROGRAM FROM FILM COMPANIES AND PHOTOGRAPHERS FOR STREET ARTIST SPACE USED OR ADVERSELY AFFECTED BY FILMING/PHOTOGRAPHING; POSSIBLE MOTION TO APPROVE A PROPOSAL FOR USAGE OF SUCH COMPENSATION**

A. Proposal to rebate, or divide the accumulated compensation, at the end of the year among all street artists in the Program.

Continued.....

CITY AND COUNTY OF SAN FRANCISCO

B. Proposal to put such used or adversely affected spaces into the regular street artist spaces lottery of the day the spaces are used or adversely affected; artists "signing in" for such spaces may not use them but will receive $200 from the Program within three weeks (the amount of compensation per space to be received by the Program from film companies/photographers);any compensation leftover from used/adversely affected spaces not selected in the lottery may be saved by the Program for an emergency fund for artists with large medical, funeral, or burial expenses.

C. Proposal to supplement the Program's certificate fee revenue with such accumulated compensation in order to offset a possible fee increase the following year due to increased Program costs; or, conversely, to factor in such compensation with the fee revenue in order to lower, if possible, the fee for the following year.

VII PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM

VIII PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IX ADJOURNMENT

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline at (415)**554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHIRE ORDINANCE TASK FORCE AT 554-6075.

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13/96

STREET ARTISTS PROGRAM COMMITTEE

November 13, 1996
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith

Commissioner absent: Dede Wilsey

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:12 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S DRAFT CRITERIA AND GUIDELINES, AS APPROVED BY CITY ATTORNEY, FOR IMPLEMENTING PROVISION IN SECTION 5 OF PROPOSITION "L" (STREET ARTIST ORDINANCE) OF NOVEMBER, 1975 ELECTION WHEREBY A CERTIFICATE SHALL NOT BE ISSUED (OR RENEWED) IF CHARGES OF DECEPTION RESORTED TO IN OBTAINING THE CERTIFICATE, OR ANY OTHER VIOLATION OF THE APPLICABLE PROVISIONS OF THE SAN FRANCISCO MUNICIPAL CODE, HAVE BEEN FILED WITH THE ART COMMISSION; SUCH CRITERIA AND GUIDELINES TO BE MADE WIDELY AVAILABLE AND THAT STAFF REPORT TO ART COMMISSION AT A PUBLIC HEARING IN SIX (6) MONTHS AS TO THE IMPACT OF THIS CHANGE IN ENFORCEMENT OF THE STREET ARTIST ORDINANCE**

Commissioner Rogers stated that after his Committee held a hearing on this item, it was submitted to the full Art Commission whereupon it was pulled from the agenda for further legal review. After meeting with the City Attorney, a second draft for implementing the Section 5 provision was prepared for the current hearing. The Commissioner commented that he did not see as many people in attendance as he had expected. He asked the Program Director to give a brief summary of the Commission's consideration of the item.

In his summary, Program Director Lazar commented that the draft represented the language of the City Attorney. In addition, the City Attorney's office, in meeting with staff, had again corroborated that Section 5 pertains to certificate renewals as well as first issuances of certificate: the act of renewing a certificate is an issuance of the certificate. Therefore, as was clarified, the Art Commission has the right to warn and to carry out a denial of renewal pending

CITY AND COUNTY OF SAN FRANCISCO

final decision from a hearing conducted by the Program Committee, such decision being subject to appeal by the Board of Permit Appeals.

The Program Director stated that the provisions of Section 5 had been in existence for twenty-one years, and that the proposed implementation would not remove anything from the Program Committee's current hearing procedure but would be adding to it.

Director of Cultural Affairs Newirth stated that, with the proposed procedure, a street artist whose certificate expires prior to Committee hearing would not be able to operate before the hearing, for the artist will not receive an interim certificate. The City Attorney has clarified that this is analogous to any situation where someone is applying for a license and there is a dispute: the license is not issued until a final determination is made by the body that hears the dispute. In this case, the body is the Program Committee.

The Director further stated that Mr. Lazar and he had talked about the many built-in street artist protections in the proposed procedure in terms of the provisions for warnings, the quality of evidence received, the Director and Program Director having to agree on any denial of certification pending Committee hearing, one of the artist's three violations having to be observed by staff or Police prior to issuance of the "Notice of Withholding of Certificate or Renewal Pending Hearing" - all of which has been examined by the City Attorney's office which again clarified that Section 5 pertains to renewal as well as first issuance of certificate. Mr. Newirth concluded by saying that he felt very comfortable with the proposal.

Commissioner Freebairn-Smith ascertained that if an artist's certificate were to expire prior to his hearing and the Committee's decision were to not be favorable to the artist, there would be hopefully no more than two months for the artist's livelihood to be affected if the Committee were to be found incorrect in its evaluation.

Commissioner Rogers opened the meeting to public testimony.

Street Artist Larry Rosenbloom stated that he received the agenda on Friday night (five days ahead of the meeting) and an issue like this one should be circulated among the artists in the form of a questionnaire. Mr. Rosenbloom

disputed the City Attorney's clarification that Section 5 pertains to renewals.

Street Artist Robert Clark stated that the current street artist ordinance, Proposition "L," is a verbatim of the original law which started the Street Artists Program in 1972, and that it had been his attorney and the City Attorney who had co-written the original law. He stated that it was his attorney's and his intent that the section currently in question refer to renewals. Because of this, he supported the proposal and maintained that it will enhance the Program's ability to solve street artist problems without having to submit them to Program Committee hearing; small and medium-sized problems will be dealt with without having to take up the Committee's time. He did not feel the proposed procedure was a threat to his well-being.

Mr. Clark went on to say that he was at the artists' Saturday lottery for spaces when someone stood up and said that the Program Director was trying to take the Committee hearings away from the street artists, and the person then asked people to sign a petition. If the Commissioners have received the petition, Mr. Clark wanted to inform them that it was obtained on untruths because it is clear that the proposal is not going to take away anyone's right to come to the Committee to appeal the Program Director's decision. "As a life-long street artist," he supported the proposal and thanked Mr. Lazar for submitting this new idea to the Committee in order to alleviate problems.

Street Artist Eunice Rodriguez told the Commissioners that she has been in the Program for twenty-one years and that she supported the proposal; she added that the people who were signing petitions against it are habitual lawbreakers who want to restrict the Program Director's authority.

Street Artist Virginia Burris stated she was not a habitual lawbreaker and that she was concerned about the possibility that a street artist could be without a license for a month while awaiting a Program Committee hearing, or could be without a license for two months if the Committee cannot get a quorum, and that this could happen if the artist had committed a minor offense.

Street Artist Virginia Travers took issue with Ms. Burris' statement by stating that her understanding was that any denial of renewal would be the result of an artist's having committed the offense several times. Ms. Travers

supported the proposal.

Mr. Lazar clarified that there could be an instance whereby an artist, after three minor violations or after one serious violation*, is given notice that his certificate will not be renewed pending a hearing and the artist's certificate is valid for a year; in that case, the Program will not wait a year but will schedule the hearing for the next available Committee meeting. The Committee could then decide to renew or not renew the certificate when it is due, or it could allow the artist the opportunity demonstrate over the year compliance with the law so that the Committee could reconsider its decision at that later time.

Street Artist Leah Mazor stated that she has been in the Program for two and a half years, that she used to break the law, and that she supported the proposal.

Commissioner Rogers commented that former Commissioner Anthony Turney had made several excellent speeches about the integrity of the Program and the involvement of every street artist in making sure that the rules are followed.

Mr. John Bass stated that he was a former street artist who held a license for nine years and that he understood the proposal to have "plenty of safeguards" for the artists - a system of warnings, a hearing by the Committee, the opportunity for appeal by the Board of Permit Appeals. Aside from this, if it's a serious violation, the Program Director can submit the case directly to the Committee without warning. The power to make a recommendation to not renew a certificate is, he said, implicit in the authority provided for granting a certificate. As for petitions, he said, people don't like getting parking tickets and could supposedly sign a petition against parking tickets, but it is beside the point. People who understand the necessity of maintaining certain rules will like the proposal; another petition could be obtained, this time from the people who obey the rules.

Street Artist Larry Rosenbloom urged the Commissioners to look at the petition signed by artists opposing the proposal.

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* "Minor violations" would be "most violations of a non-violent non-threatening nature" and "serious violations" would be "violations of a violent of threatening nature and violations that significantly threaten the integrity of the Street Artists Program."

Street Artist Virginia Burris asked for another hearing on the matter, as the Committee had before it some wording that amended the procedure.

Director of Cultural Affairs Newirth responded that the City Attorney approved both the original and the amended versions. The item that is on the agenda does not change; while the implementation wording has changed, the action on the agenda has not changed. The item, therefore, is totally represented accurately on the agenda.

Under further protest by Ms. Burris, the Director went on to say that often in meetings there are slight revisions made even during the progress of the meeting, and this is legitimate. If the motion and the intention are spoken of clearly on the agenda, the fine-tuning of the measure is appropriate. There was no legal reason to hold another hearing on this issue.

After public testimony was closed, Commissioner Freebairn-Smith moved approval of the Program Director's draft criteria and guidelines, as approved and amended by City Attorney and Program Committee, for implementing provision in Section 5 of Proposition "L" (Street Artist Ordinance) of November, 1975 election whereby a certificate shall not be issued (or renewed) if charges of deception resorted to in obtaining the certificate, or any other violation of the applicable provisions of the San Francisco Municipal Code, have been filed with the Art Commission; such criteria and guidelines to be made widely available; and staff to report to Art Commission at a public hearing in six (6) months as to the impact of this change in enforcement of the Street Artist Ordinance. The motion was seconded by Commissioner Rogers.

Commissioner Freebairn-Smith stated that the principles he was trying to protect in this matter are concern for cash damage to artists by a government agency that might be prone to slow procedures or delays that would be hurtful to people who are essentially in businesses without large cash reserves. The lives and businesses of the street artists is a very sensitive matter to the Commission. The Commissioner said that he was persuaded by the fact that the artists cannot be put out of business through two prior warnings which was a "gentle procedure." Therefore, in his opinion, the proposed procedure was "adequately sensitive." With regard to the issue of potential abuse, the Commissioner stated that in all groups there are individuals more paranoid than others about being abused. He felt that

there were enough safeguards in the proposal that can address the possibility of abuse. The "issuance of certificate" section of the law was the foundation of the proposal. These points, he said, formed the basis of his vote.

Director of Cultural Affairs Newirth stated that the issue will be reviewed in six months to see how the implementation has worked.

Commissioner Rogers thanked the street artists who alerted the Commissioners and staff after the first draft was recommended, that there may have been some legal problems that had not been taken into account. Because of this and because the Director of Cultural Affairs had not been comfortable with the decision, the item was pulled off the agenda of the full Commission for further study and further hearing by Committee. The Commissioner stated that he felt they had come up with a good and efficient system that will take to heart the issues that the Committee heard from the artists. With the safeguards of the participation of both the Director of Cultural Affairs and the Program Committee, the Commissioner was satisfied that the proposal would not be removing the livelihood from some street artists unfairly.

The motion was unanimously approved.

II HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE

Hubert Emerson Ortis - Certificate # 4656. Alleged violation: Conducting business in a disorderly, improper or hazardous manner (threatening and verbally abusing a Parking Control Officer and verbally abusing Police Officers on July 18, 1996, at the 700 block of Beach Street).

Mr. Hubert Emerson Ortis stated that the Parking Control Officer had taken his job on Beach Street too seriously, excessively giving out tickets, when someone finally made a complaint and had him transferred. With regard to the incident, Mr. Ortis said the officer had seen him feed his parking meter all day but decided to issue him a ticket as he was in the processing of putting more money in the meter. According to Mr. Ortis, the officer had told the artists that as long as they kept their meters fed, there would be no problem. But the officer, Mr. Ortis said, would not allow him to put his quarter in the meter. "So of course I got angry," Mr. Ortis stated, and let the officer

know he was abusive. Mr. Ortis stated also that he has already paid almost $800 in tickets issued to him by the officer.

Commissioner Rogers stated that the officer felt threatened enough to call the Police, and that the Art Commission had received a Police report which described how Mr. Ortis treated the Police officers. Mr. Ortis denied what was stated in the report. He said that the Police officers went to his table and picked up his scissors and pliers and said they were protecting themselves from him. Commissioner Rogers noted this was contrary to the Police report which stated that the pair of pliers was taken "from Ortis' hand for our safety."

Mr. Ortis asked the Commissioners to consider what would have happened to him if he had verbally abused Police officers, as the report had indicated. Because he wasn't taken to jail, "obviously" he "wasn't abusing them," he said.

Parking Control Officer Richard Kwan stated that he patrolled the Fisherman's Wharf area during the months he had problems with Mr. Ortis. When the Police arrived, he said, Mr. Ortis did have the pliers in his hand. He denied Mr. Ortis' statement of having received $800 in tickets, and further stated that he has many complaints with regard to Mr. Ortis' actions. When he attempted to cut the spokes of Parking Control Officer Kwan's bike, the officer called the Police. Mr. Ortis, he said, made verbal threats before the Police officers to do bodily harm.

Parking Control Officer Kwan stated that he learned from his supervisor that a petition of 57 to 100 signatures had been received stating that he had been harrassing the signators; but he "was told that it was a good job well done." He went on to say that he did not have a problem with street artists, that what was required of them was to feed their meters. If he sees that a meter is expired, his issues a ticket.

Parking Control Officer Tom Abrahamson stated that he has the Fisherman's Wharf beat on Saturdays and that, prior to November 2nd, he had an incident with Mr. Ortis whereby he cited Ortis and another street artist who were parked adjacent to each other. Prior to this, he had given Mr. Ortis "numerous breaks, lots of leniency" because almost every Saturday Mr. Ortis was parked illegally. When he finally ticketed him, he "tried to tell him very politely

and calmly that" he "was sorry" he had to write him the ticket, whereupon Mr. Ortis told him, "'Somebody's going to snipe you... Somebody's going to hit on you and your family."

Mr. Ortis told the Commissioners that he was "a family man" with "four kids" and he "would never threaten another man's kids."

Parking Control Officer James Hudson stated the he had been Parking Control Officer Abrahamson's partner on the day of the incident just related, and that he heard Ortis say that "he was going to snipe" Abrahamson's "family." Mr. Ortis told him, he said, that the Art Commission had given the artists permission to park there all day; the Parking Control Officer, however, informed him that it wasn't so, that it was a courtesy extended by the officers so long as the artists fed the meters. The officer stated that he himself had tagged Mr. Ortis several times.

In response to a question by Street Artist Therese Koller as to why the alleged parking incident would impact on a street artist's certificate, both Commissioner Rogers and Program Director Lazar clarified that the City Attorney's office, after reviewing a 1983 opinion written by Deputy City Attorney Boyajian, clarified that the conduct of the street artist in question was clearly in the course and scope of his business as a street artist and therefore the Art Commission had jurisdiction in the matter.

Commissioner Rogers observed that it was an extraordinary courtesy extended by Parking Control Officers, and that it was up to the artist to comply with it.

Mr. Ortis stated that some of the meters do not give full time for the money.

Officer Abrahamson stated that he has now been assigned Officer Kwan's beat.

Street Artist Virginia Burris stated that she and the artists had never submitted a petition against a Parking Control Officer until they did so against PCO Kwan, and that, in addition, she heard of ten stories of unfairness.

Street Artist Therese Koller expressed the view that it was wrong for Parking Control Officers to give the artists special treatment which jeopardizes fairness to everyone else in the city and seriously jeopardizes the street

artists in retaining their spaces.

Director of Cultural Affairs Richard Newirth stated that he would initiate a discussion with Director of Parking and Traffic John Newlin about possible parking permits for street artists in designated areas or other types of solutions. Commissioner Rogers asked that Parking Control Officers Abrahamson and Hudson be a part of discussions on the matter.

Mr. Ortiz stated that he was sitting down working, trying to make something to sell, when the Parking Control Officer had passed several times and had seen his meter was fed and now told him personally that someone had irritated him "so everybody's going to have to move."

After public testimony was closed, Commissioner Freebairn-Smith remarked on the street artists' "privilege of a sensitive agency," whereas other cities like New York or Chicago would vigorously seek their parking meter revenue.

Commissioner Rogers moved that Hubert Emerson Ortis be found in violation of the street artist ordinance for having conducted business in a disorderly, improper, hazardous manner, and that Mr. Ortis' certificate be suspended for a period of three (3) weeks. The motion was seconded by Commissioner Freebairn-Smith.

Commissioner Rogers stated that he would have recommended a longer suspension were it not for the fact that the hearing procedure had previously been delayed due to a lack of quorum and this might have impacted Mr. Ortis' ability to bring witnesses on his behalf.

Mr. Ortis interrupted with statements that the procedure was unfair and he was going to get a lawyer.

Continuing, Commissioner Rogers acknowledged that Police Officer Lee, who wrote the incident report and had agreed to appear last month when a lack of quorum occurred, was now unable to appear and testify at today's hearing.

Program Director Lazar asked that the Committee consider amending its recommendation to provide that the suspension occur after the winter holiday season because (a) Mr. Ortis could have served the suspension in October, the off-business season, had there been a quorum to have taken up the case after summer, and (b) the Committee has the authority to defer a suspension period.

Commissioner Freebairn-Smith said that he, too, was sensitive to the winter holiday business issue and moved that the previous motion be amended to provide that the suspension period commence after February 1, 1997. The motion was seconded by Commissioner Rogers and unanimously approved.

Mr. Ortis told the Commissioners he was not satisfied with the action and that they should remember that "what goes around comes around" and expressed profanity with regard to the proceedings. He continued to argue with the Committee's action that he had been dealt with unfairly, demanded to know Commissioner Rogers' name, and told the Commissioners: "God bless your day!" He left the room.

III HEARING ON PROPOSALS, INCLUDING BUT NOT LIMITED TO THE FOLLOWING PROPOSALS, FOR USAGE OF COMPENSATION COLLECTED BY STREET ARTISTS PROGRAM FROM FILM COMPANIES AND PHOTOGRAPHERS FOR STREET ARTIST SPACE USED OR ADVERSELY AFFECTED BY FILMING/PHOTOGRAPHING; POSSIBLE MOTION TO APPROVE A PROPOSAL FOR USAGE OF SUCH COMPENSATION

A. Proposal to rebate or divide the accumulated compensation at the end of the year among all street artists in the Program.

B. Proposal to put such used or adversely affected spaces into the regular street artist spaces lottery of the day the spaces are used or adversely affected; artists "signing in" for such spaces may not use them but will receive $200 from the Program within three weeks (the amount of compensation per space to be received by the Program from film companies/photographers); any compensation leftover from used/adversely affected spaces not selected in the lottery may be saved by the Program for an emergency fund for artists with large medical, funeral, or burial expenses.

C. Proposal to supplement the Program's certificate fee revenue with such accumulated compensation in order to offset a possible fee increase the following year due to increased Program costs; or, conversely, to factor in such compensation with the fee revenue in order to lower, if possible, the fee for the following year.

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* Mr. Ortis returned during the Committee's consideration of the next item and interrupted the meeting by verbally abusing Commissioner Rogers (see Page 11 and 15 of these minutes).

Director of Cultural Affairs Newirth said he spoke with the City Attorney about the proposals. Mr. Newirth stated he felt that Proposal "A" would require much work in terms of cutting checks and could possibly cost more to implement than what might be collected in revenue. While he applauded Proposal "B" particularly in the sense that it reflected a caring for the street artists, the City Attorney's office felt there may be problems in determining who would be a person in need; in addition, the Director did not feel comfortable with the proposal's lottery as a money distributor.

At this point, the hearing was interrupted by Hubert Emerson Ortis who had re-entered the room and now hurled profanity at the Commissioners and pointedly directed his invective with anatomical reference to Commissioner Rogers. Ortis left the room.

Program Director Newirth stated that the Commissioners had the authority to render a new decision on Mr. Ortis' certificate. The Committee chose to maintain its earlier decision.

Returning to Item III, Director Newirth said that he favored Proposal "C" as the fairest because each year the Controller requires the Art Commission to justify the street artist cerftificate fee with the expenses of the Program, to either increase the fee in order to cover the expenses or to decrease the fee if there is an excess of fee revenue over expenses. Proposal "C", therefore, would apply to all the street artists; whereas Proposal "B" might allow for just a few people to benefit, Proposal "C", if there is sufficient income, would allow each continuing member of the Program to benefit financially.

Street Artist Robert Clark said that while he had no problem with "C," he did not want the Commissioners to overlook a possible Proposal "D" which, he said, would be to accumulate the movie money for use by the Program for other purposes. Because such money would not be fee revenue, the Program would not be restricted to using the money for administration and enforcement; the money could be used, for example, for advertising of the Program.

Street Artist Therese Koller stated that it is the street artist who has the right to sit in the street artist space; accordingly, the artist enters the lottery on a particular day to get the space, and if that space is being used by a movie company, it is the street artist who is harmed,

not the Program. It is the artist who should be compensated because of the artist's loss of revenue, not the Program.

Street Artist Virginia Burris stated that when a movie company takes over street artist spaces, the spaces are usually prime area spaces, and the artists who are displaced take over spaces that would have been occupied by other artists - resulting in some ten artists who are not able to sell for the day. Ms. Burris supported Proposal "A" as the fairest measure.

Street Artist Virginia Travers submitted a petition for Proposal "B" which, she stated, she authored. She said that, in addition to being a street artist, she has been a member of the Screen Actors Guild for several years. As a street artist, if she signs in for a space, she expects to make money to feed her family on that particular day, and not five months later. The money she earns on a daily basis goes to cover the bills she has every day. If a film company takes over the street artist spaces on Grant Avenue for one week, it means that Ms. Burris cannot pay her bills for that week, which creates a hardship for her and a hardship for her children - and this means, in turn, that she might have to apply for AFDC which then puts a hardship on the American taxpayers. What her proposal tries to do is to compensate the artists who were affected on a particular day.

Ms. Travers went on to say that if a film company sets up in Shreve's, the company makes a deal to pay $10,000 a day to use the jewelry store. As a result, Shreve's gets the money, while the store's employees still get their paychecks for the day. They can still feed their families. Similarly, Proposal "B" was about compensating the impacted artists with a not-so-extravagant amount of money: perhaps, $1,000 for a one-week shoot to be divided among maybe ten people. Furthermore, this would not happen on a daily basis; it might happen once a year.

As for Proposal "A," Ms. Travers stated that, as the Director said, there might not be enough money to cover the costs of cutting checks for the 400-plus artists in the Program. It would also be unfair because someone could be in the Program for a long time and lose revenue one day by being displaced, while months later someone else who has only been in the Program for a month would get a check in the mail for what someone else endured at a time when the newcomer wasn't even in the Program.

As for Proposal "C," Ms. Travers stated that it did not guarantee a reduction in the certificate fee; it only said "if possible." In reiterating her support of "B," she said any leftover money could go into a special fund for advertising, parking permits, or other uses. Nevertheless, the main issue is that the particular artist who is restricted from working on a particular day or week should be the one to receive compensation. Significantly, if the artists are prohibited by a movie from selling on Stockton Street during the height of the Christmas season, the artists "are out of a lot of money" because "the money we make over Christmas has to carry us for two months, January and February, which are our down times." If this were to happen, a lot of families would be put under hardship that would carry over into January and February.

Street Artist Robert Clark stated that he would have no problem with "B" if everyone in the Program were to receive advance notice of the spaces that would be lotterized for compensation; but, as it was, "B" would benefit only those who are fortunate to learn of the displacement in time. He felt that, as a person who has worked twenty-five years in the Program, he too "would like to have a chance for some of that free money to pay for some of the hard work I've done in the past."

Former Street Artist John Bass stated that there is no assurance that any street artist is going to get a particular space in the lottery; therefore, no one can say with certainty that tomorrow they will be deprived. Secondly, he wondered how many street artists really do have two hundred dollar days consistently; his experience was that such days were not that frequent. Thirdly, if a film company takes over spaces that are hardly ever used, artists will sign up for those spaces. The chances of a "fair" use of the money are very uncertain.

Street Artist Therese Koller stated that 150 artists, not the entire Program, are active, and they are the ones who should be compensated - not the other artists who don't work. The 150 are the ones who make the effort to participate in the lottery each day.

Commissioner Rogers ascertained from staff that at this point there was no prediction as to how much compensation would come to the Program.

Street Artist Virginia Travers stated that there are times during which a film company does not decide on its location until the morning of filming; therefore, the Program would not always be given advance notice.

Street Artist Virginia Burris withdrew her support of "A" in favor of "B," after hearing the arguments of Virginia Travers and Therese Koller that 200 out of the Program's 400 artists are active.

Commissioner Rogers expressed his appreciation for the artists' efforts in working with Program Director Lazar in getting the compensation agreement with the Film Commission. It represented an attempt to alleviate the suffering that has occurred when film companies have displaced street artists.

Commissioner Freebairn-Smith stated that he was an AFTRA member who grew up in an entertainment family in Southern California and knew how film companies expend "astonishing amounts of money to buy off resistance to what they're doing." He related an incident in which his Telegraph Hill Homeowners Association received $40,000 from a film company for location shooting but had a difficult time deciding on who should get the money: this, he said, was analogous to the present issue. His concern, he said, was not for the amounts of money a film company would have to pay; it was for the artists. He wanted to see a procedure that the Program Director could manage, something that would be fair.

Commissioner Rogers stated that he was totally opposed to "A" because of the costs involved; at the same time, "C" was a very good idea, probably the easiest to administer; but the Commissioner favored "B": since the Commission runs a lottery for spaces already, why not make the $200 a day compensation a benefit the artist would get from the lottery? It would be fairly easy and direct to administer and would also take care of the problem of any street artist who signs up for a space and finds out when he gets there that he can't use the space because the film company did not give advance notice to the Commission. Furthermore, the Commissioner did not see anything wrong with the procedure attracting an artist who wanted to try their luck in the lottery just to get the money.

The Commissioners ascertained from the artists present that if the Program received advance notice from a film company, the Program Director should so inform the Lottery Committee

- not all the street artists - to make announcements that certain spaces would be used by the film company and that those spaces would be part of the lottery to determine the recipients of compensation.

The Program Director clarified that if the Committee recommended adoption of "B", it would also be adopting the possible situation of the Program's not receiving advance notice of filming, and the only people who would be eligible for compensation would be those who happen to be at that day's lottery. Commissioner Rogers responded that that, too, was why he favored "B" as the fairest solution in cases of advance warning and no warning.

The Commissioner went on to say that he could not support the second part of "B" which proposed that leftover compensation would be given to artists with major expenses.

Commissioner Rogers moved to approve proposal for usage of compensation collected by Street Artists Program from film companies and photographers for street artist space used or adversely affected by filming/photographing: proposal to place such used or adversely affected spaces into the regular street artist lottery of the day the spaces are used/adversely affected, to prohibit artists who "sign in" for such spaces from using them and to allow such artists to receive $200 from the Program within three weeks, to return to the Program as revenue any compensation leftover from such spaces not selected in the lottery, such accumulated compensation to possibly offset for the following year a fee increase due to increased Program costs or, conversely, to factor in with the fee revenue for possibly lowering the fee; adoption of proposal for a period of twelve months. The motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

IV NEW BUSINESS

Commissioner Freebairn-Smith asked that the minutes reflect that the tone of Mr. Ortis' response at his hearing was in direct contradiction to the tone and attitude of the Commission, and that should something occur that would result in another hearing with him, the Committee will not be inclined to exercise leniency.

Street Artist Therese Koller submitted a petition signed by 36 artists concerning documentation on what services the staff members are performing for the fees that are

paid.

Ms. Koller stated that there were abuses in the Program.

Street Artist Bob Clark stated that, while no system is perfect, New York's Columbia Law School had determined that San Francisco's Street Artists Program was the best in the nation. Street Artist Eunice Rodriguez concurred.

Commissioner Rogers moved to adjourn the meeting; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

The meeting adjourned at 5:58 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar, Director
Street Artists Program

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NOTICE

There will be no meeting of the Art Commission's Street Artists Program Committee scheduled for the month of December, 1996.

The next meeting of the Street Artists Program Committee is scheduled for Wednesday, **January 8, 1997, 3:00 p.m.**, Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

December 4, 1996

City and County of
San Francisco